

EXHIBIT C

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KERRY ASHDOWN,

Plaintiff,

-against-

Index No.: 13 CV 1374
(HB) (GWG)

EQUINOX, a/k/a EQUINOX FITNESS CLUB and
incorporated as EQUINOX HOLDINGS, INC.,
MAURO MARIETTA, LAWRENCE SANDERS, and MATT
PLOTKIN a/k/a MATTHEW PLOTKIN,

Defendants.
-----X

DATE: August 27, 2013

TIME: 10:10 A.M.

EXAMINATION BEFORE TRIAL of the
Plaintiff, KERRY ASHDOWN, taken by the
Defendants, pursuant to an Order, held at
the offices of LaRocca Hornik Rosen
Greenberg & Blaha, LLP, 40 Wall Street, New
York, New York 10005, before May Jean Wu, a
Court Reporter and Notary Public of the
State of New York.

1

2 A P P E A R A N C E S:

3

4 THE HARMAN FIRM, P.C.
5 Attorneys for Plaintiff
6 200 West 57th Street
7 New York, New York 10019
8 BY: WALKER G. HARMAN, JR., ESQ.

7

8 LaROCCA HORNIK ROSEN GREENBERG & BLAHA, LLP
9 Attorneys for Defendants
10 40 Wall Street
11 New York, New York 10005
12 BY: PATRICK T. McPARTLAND, ESQ.

10

and

11

JARED BLUNETTI, ESQ.

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2 F E D E R A L S T I P U L A T I O N S

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4 IT IS HEREBY STIPULATED AND AGREED by
5 and between the counsel for the respective
6 parties hereto that the filing, sealing and
7 certification of the within deposition
8 shall be and the same are hereby waived;

9

10 IT IS FURTHER STIPULATED AND AGREED
11 that all objections, except as to the form
12 of the question, shall be reserved to the
13 times of the trial.

14

15 IT IS FURTHER STIPULATED AND AGREED
16 that the within deposition may be signed
17 before any Notary Public with the same
18 force and effect as if signed and sworn to
19 before this court.

20

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22 * * * * *

23

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25

1 ASHDOWN

2 K E R R Y A S H D O W N, called as a
3 witness, having been first duly sworn by a
4 Notary Public of the State of New York, was
5 examined and testified as follows:

6 EXAMINATION BY

7 MR. McPARTLAND:

8 Q. Please state your name for the
9 record.

10 A. Kerry Ashdown.

11 Q. Where do you live?

12 A. [REDACTED]

13 [REDACTED] New York [REDACTED]

14 Q. Good morning, Ms. Ashdown.

15 A. Good morning.

16 Q. My name is Pat McPartland. I'm
17 an attorney for Equinox.

18 I'm going to ask you some
19 questions today about the lawsuit. Before
20 we begin, I have some initial instructions.

21 A. Okay.

22 Q. The first one is to please wait
23 until I finish asking my question before
24 you begin to answer and I'll wait until you
25 finish speaking before I begin to speak to

1 ASHDOWN

2 you again.

3 A. Okay.

4 Q. It's difficult for the court
5 reporter to take us both down when we're
6 speaking at the same time.

7 A. Yes.

8 Q. If at any point you don't
9 understand the question that I ask you,
10 please just let me know and I'll try to
11 rephrase it in a way that you do understand
12 it. If you want to take a break to speak
13 to your attorney or to use the restroom,
14 that's not a problem. It's just if I have
15 a question pending, you will need to answer
16 that question before you take a break,
17 okay?

18 A. (Nodding head.)

19 Q. Also please keep all your
20 answers verbal. The court reporter can't
21 take down nods of the head for yes or
22 shakes for no, okay?

23 A. Okay.

24 Q. Have you ever testified before?

25 A. No.

1 ASHDOWN

2 Q. Are you taking any medications
3 or any other substances that would affect
4 your ability to testify here today?

5 A. No, I've taken two Advils this
6 morning, but that's it.

7 Q. What's your date of birth?

8 A. The [REDACTED] oh, it's the other
9 way around, [REDACTED]

10 Q. That's the European version?

11 A. It is, yes.

12 Q. What is your marital status?

13 A. Single.

14 Q. Any children?

15 A. None.

16 Q. Have you ever been known by any
17 other names other than Kerry Ashdown?

18 A. No.

19 Q. Your current address, is that
20 apartment 4N?

21 A. 5N.

22 Q. For how long have you resided
23 there?

24 A. Since October of last year.

25 Q. So that would be 2012?

1 ASHDOWN

2 A. Yes.

3 Q. With whom do you currently
4 reside?

5 A. I have a house mate.

6 Q. Who is that?

7 A. Her name is Nisha Inalsingh.
8 Do you want the spelling?

9 Q. Yes, please.

10 A. N-I-S-H-A I-N-A-L-S-I-N-G-H.

11 Q. How long have you resided with
12 Ms. Inalsingh?

13 A. Inalsingh, it's since October
14 of last year, yeah.

15 Q. With respect to your current
16 residence, is that a condominium, a
17 building, a rental building or something
18 else?

19 A. Oh, I have no idea. I'm sorry.

20 Q. Do you own or rent it?

21 A. She owns. I rent with her.

22 Q. So you rent a room from her?

23 A. Yes, sir.

24 Q. Do you have a written lease
25 agreement with her?

1 ASHDOWN

2 A. Yes, we do.

3 Q. What is your monthly rent?

4 A. 1,800.

5 Q. Your name appears on the lease,
6 is that correct?

7 A. Yes.

8 Q. Prior to October of 2012, where
9 did you reside?

10 A. In the UK.

11 Q. For how long were you residing
12 in the UK?

13 A. From January, 2012.

14 Q. Where did you reside in the UK?

15 A. Several places, I was splitting
16 my time between friends.

17 Q. Okay, so you had no permanent
18 residence there?

19 A. No.

20 Q. Now what is your current
21 immigration status?

22 A. I have an 01-visa.

23 Q. What type of visa is that?

24 A. Extraordinary ability in my
25 field.

1 ASHDOWN

2 Q. Which field is that?

3 A. Health and fitness.

4 Q. What was the basis for your
5 receiving that visa?

6 A. I have what I've achieved in my
7 work with the articles I've written, the
8 presenting work I used to do, I used to
9 present at conventions and the experience
10 that I've had in the industry.

11 Q. Did you present all of that
12 information as part of a visa application?

13 A. Yes.

14 Q. It was handled by an attorney?

15 A. Yes, it was.

16 Q. Who was it handled by?

17 A. I have to get you the name and
18 the telephone.

19 Q. We'll leave a space in the
20 record for you to provide us with the name
21 and address of that attorney, okay?

22 A. I'll give you the name of the
23 attorney. I just don't know the name of
24 the firm.

25 Q. Okay, the name of the attorney

1 ASHDOWN

2 would be great for now.

3 A. Gayle Oshrin, G-A-Y-L-E, and I
4 believe the last name is O-S-H-R-I-N, I
5 believe.

6 Q. Is Ms. Oshrin an attorney in
7 New York?

8 A. Yes.

9 Q. In New York City?

10 A. Mmhmmm, yes.

11 Q. Again we'll leave a space in
12 the record, if you can provide the name of
13 the law firm as well as the address, okay?

14 A. Mmhmmm, yes.

15

16 Q. When did you receive the visa?

17 A. October, 2012.

18 Q. Does that visa permit you to
19 work in the United States?

20 A. Yes, it does.

21 Q. Are there any restrictions on
22 the type of work that you can perform?

23 A. No, I am a free-lance trainer.
24 If I want to do any other work, I have to
25 get another O-1.

1 ASHDOWN

2 Q. Prior to October of 2012, what
3 was your immigration status?

4 A. I was in the UK, so I wasn't.
5 I didn't have any immigration status.

6 Q. How about prior to January of
7 2012?

8 A. I had an H-1B with Equinox.

9 Q. Other than this January, 2011
10 to October of 2012 stay in the United
11 Kingdom --

12 A. I think it was January of 2012.

13 Q. I'm sorry.

14 (Continuing) January of 2012
15 until October of 2012 stay, have you
16 visited or made any trips back to the
17 United Kingdom?

18 A. I came back to visit in August
19 of 2012.

20 Q. For how long?

21 A. I can't recall exactly how long
22 it was for, but I went to stay with my
23 friend in the Hamptons.

24 Q. Was it more or less than a
25 month?

1 ASHDOWN

2 A. It was more than a month.

3 Q. Was it more than two months?

4 A. No, I don't recall that it was.

5 Q. What was the purpose for that

6 trip?

7 A. As a trip.

8 Q. Are you currently employed?

9 A. I'm self-employed.

10 Q. What type of business?

11 A. Personal trainer.

12 MR. HARMAN: Objection.

13 MR. McPARTLAND: What's the
14 objection?

15 MR. HARMAN: You can answer the
16 question.

17 A. I'm a personal trainer.

18 Q. Do you have any legal entity
19 set up in the United States?

20 A. I don't understand.

21 Q. A corporation or a limited
22 liability corporation?

23 A. No.

24 Q. No?

25 A. No.

1 ASHDOWN

2 Q. So you receive whatever income
3 you earn from personal training, that is
4 paid directly to you?

5 A. Yes.

6 Q. How long have you been
7 providing personal training sessions on a
8 self-employed basis?

9 A. Since October, 2012.

10 Q. How many current clients do you
11 have?

12 A. I have to work that out for
13 you. I don't have a number off the top of
14 my head.

15 Q. Is it more than ten?

16 A. Yes, I think so.

17 Q. More than twenty?

18 A. No.

19 Q. Do you maintain a list of those
20 clients?

21 A. Do I have a list?

22 Q. Yes.

23 A. I think we've provided to you a
24 list.

25 Q. Did you provide any personal

1 ASHDOWN

2 training session services on a self-
3 employed basis in 2011?

4 A. No.

5 Q. What type of records do you
6 have regarding your personal training
7 clients?

8 A. I have the contact details. I
9 have the body percentages, their height,
10 their weight or their stats. I have their
11 goals. I have their medical history, all
12 the information that I require before I
13 start training someone.

14 Q. Where do you maintain those
15 documents?

16 A. At my house.

17 Q. Is it on a computer system?

18 A. Mmmmmm, yes, sorry.

19 Q. With respect to the personal
20 training sessions that you provide to them,
21 do you have records reflecting the dates of
22 when those sessions were performed?

23 A. Yes.

24 Q. What type of records do you
25 have?

1 ASHDOWN

2 A. Again from a computer of every
3 session that I've done I've typed that up.

4 Q. With respect to the payments
5 that you receive for these personal
6 training sessions, what type of records do
7 you have?

8 A. It's predominantly square
9 payments, which I've set up, which I
10 believe were from March of this year, and
11 everybody else pays in check.

12 Q. Nobody pays you in cash?

13 A. No.

14 MR. McPARTLAND: Off the
15 record.

16 (Whereupon, the discussion was
17 held off the record.)

18 Q. Now with respect to the check
19 payments, where do you deposit those
20 payments?

21 A. Into my bank account.

22 Q. Where is your bank account
23 located?

24 A. It's HSBC.

25 Q. Which branch?

1 ASHDOWN

2 A. I can't even begin to tell you.
3 It was one of the ones on Second Avenue.

4 Q. Where on Second Avenue?

5 A. I don't recall the exact
6 address.

7 Q. How do you physically deposit
8 your checks?

9 A. I can go to any HSBC branch.

10 Q. Where do you typically go?

11 A. The one down here in the
12 financial district or the one on 33rd and
13 Park.

14 Q. That's deposited into a
15 checking account, a savings account or
16 something else?

17 A. A checking account.

18 Q. How much do you currently
19 charge for each personal training session?

20 A. Between ninety to 110 an hour.

21 Q. Since October, 2012 until date,
22 how frequently do you perform these
23 personal training sessions?

24 A. It varies on a week-to-week
25 basis.

1 ASHDOWN

2 Q. So from the period of October
3 of 2012 through December of 2012, how often
4 do --

5 A. Very little.

6 Q. I'm sorry?

7 A. Very little.

8 Q. Very little, so is that one
9 time a week or is that --

10 A. It was --

11 Q. (Continuing) one time a month?

12 MR. HARMAN: Hold on a second.

13 Let him finish the question.

14 THE WITNESS: Sorry.

15 MR. HARMAN: Then you may
16 answer.

17 THE WITNESS: Okay.

18 Q. So when you say, "Very little,"
19 do you mean one time per week or one time
20 per month? How many sessions would you
21 have performed in October of 2012, for
22 instance?

23 A. I don't recall performing any
24 in October.

25 Q. How about in November of 2012?

1 ASHDOWN

2 A. I can't recall an exact figure
3 for you.

4 Q. Do you have records reflecting
5 that information?

6 A. I will have records reflecting
7 that information.

8 Q. You have records reflecting the
9 information from January of 2013?

10 A. I do.

11 Q. Till date, right?

12 A. Mhmmm, yes.

13 Q. Do you advertise your personal
14 training services?

15 A. No.

16 Q. Other than personal training
17 sessions, have you earned income from any
18 other sources?

19 A. No.

20 MR. McPARTLAND: Let's mark
21 this as Exhibit A.

22 (Whereupon, the aforementioned
23 document was marked as Defendant's
24 Exhibit A for identification, as of
25 this date, by the court reporter.)

1 ASHDOWN

2 Q. Ms. Ashdown, I'm going to hand
3 you a document that's been marked as
4 Defendant's Exhibit A. It's a six-page
5 document with Bates stamp numbers P015
6 through P020 on the bottom right-hand
7 corner. I'm going to ask you to take a
8 look at that document (indicating).

9 A. Yes.

10 Q. Do you recognize this document?

11 A. Yes.

12 Q. What is it?

13 A. It's my square account.

14 Q. What is a square account?

15 A. It's a way I would be able to
16 swipe credit cards and take payments. I
17 can take credit card payments from my
18 clients.

19 Q. What time periods are reflected
20 in these documents?

21 A. From March, 2013 until
22 presently.

23 Q. Okay, so in March of 2013 how
24 much did you receive through square dash
25 payments?

1 ASHDOWN

2 A. \$600.00.

3 Q. How much did you receive
4 through checks?

5 A. I don't have that figure for
6 you.

7 Q. With respect to April of 2013,
8 how much did you receive?

9 A. 2001, oh, no, \$4,096.00.

10 MR. HARMAN: Are we talking
11 about April?

12 MR. McPARTLAND: April.

13 A. April, that was what I was
14 going to say because it doesn't say here.
15 It's different from here.

16 Q. Below in the payment section,
17 it only shows a payment for \$2,160.00,
18 correct?

19 A. Yeah.

20 Q. Why is that?

21 A. I just don't think it printed
22 them all out.

23 Q. So this page would be
24 incomplete then?

25 A. I guess, but it tells you the

1 ASHDOWN

2 total at the top.

3 Q. How much in April of 2013 did
4 you earn via check payments?

5 A. I don't have that answer for
6 you.

7 Q. In May of 2013?

8 A. 2,460.

9 Q. The payment description below
10 only shows one payment of \$1,200.00. Is
11 this also incomplete?

12 A. I guess it is.

13 Q. In May of 2013, how much did
14 you receive in check payments?

15 A. I don't have that answer for
16 you.

17 Q. Then In June of 2013, how much
18 did you receive?

19 A. \$90.00.

20 Q. How much did you receive in
21 check payments?

22 A. I don't have that figure for
23 you.

24 Q. In July of 2013, how much did
25 you receive in payments?

1 ASHDOWN

2 A. 4,790.

3 Q. It only shows one payment of
4 \$90.00 below, so would that page also be
5 incomplete?

6 A. I guess it would.

7 Q. How much did you receive in
8 check payments in July of 2013?

9 A. I don't have that figure for
10 you.

11 Q. Referring to August of 2013,
12 how much did you receive in square dash
13 payments?

14 A. 1,440.

15 Q. How much did you receive in
16 check payments?

17 A. I don't have that figure for
18 you.

19 Q. You've never accepted any
20 payment in cash?

21 A. No, I refuse to.

22 Q. So prior to March of 2013 --

23 A. It was check form.

24 Q. When did you commence your
25 employment with Equinox?

1 ASHDOWN

2 A. The start date?

3 Q. Yes.

4 A. I believe it was January 17 or
5 18, 2011.

6 Q. Where had you been employed
7 prior to that?

8 A. I was working at Virgin Active.
9 I was a studio manager and I also was a
10 regional personal training manager for
11 Nuffield Health.

12 Q. I'm sorry?

13 A. I was also a regional personal
14 training manager.

15 Q. I'm sorry. What were the two
16 employers? Virgin?

17 A. Virgin Active.

18 Q. Virgin Active and?

19 A. And Nuffield.

20 Q. How do you spell that?

21 A. N-U-F-F-I-E-L-D.

22 Q. I'm sorry. I missed it. With
23 Virgin Atlantic your position was?

24 A. It's Active, not Atlantic.

25 Q. In Virgin Active what was your

1 ASHDOWN

2 position?

3 A. Studio manager.

4 Q. Studio manager?

5 A. Mmhmmm, yes.

6 Q. What dates were you employed
7 with Virgin Active?

8 A. It was April, 2010 until
9 December, 2010. I can't remember the exact
10 dates, but I think those were the correct
11 dates.

12 Q. What were your duties and
13 responsibilities there?

14 A. Managing the studio, a team of
15 instructors, arranging the timetable,
16 training and education, I think that was
17 pretty much it.

18 Q. Did you perform personal
19 training sessions?

20 A. No.

21 Q. What type of fitness club is
22 Virgin Active?

23 A. It's a health club.

24 Q. Full service health club?

25 A. Full service health club.

1 ASHDOWN

2 Q. What type of activities do they
3 have there?

4 A. They have personal training.
5 They have swimming lessons. They have
6 studio classes. They have Pilates.

7 Q. What was your position with
8 Nuffield Health?

9 A. Regional personal training
10 manager.

11 Q. What were your dates of
12 employment there?

13 A. Until December of 2010 too, but
14 I can't recall the start date. It's on my
15 resume.

16 MR. McPARTLAND: Okay,
17 plaintiff's counsel has agreed to
18 provide a copy of the resume. I
19 guess that will be forthcoming.

20 MR. HARMAN: Yes, I thought it
21 was sent over but yes.

22 MR. McPARTLAND: It has not
23 been sent over.

24 Q. At Nuffield Health, what were
25 your duties and responsibilities as a

1 ASHDOWN

2 regional personal training manager?

3 A. I managed the personal training
4 managers.

5 Q. How many managers did you
6 manage?

7 A. I believe it was nine.

8 Q. Were they at separate
9 locations?

10 A. Yes.

11 Q. What type of fitness club is
12 Nuffield Health?

13 A. Full service health club.

14 Q. Did you perform any personal
15 training sessions?

16 A. No.

17 Q. What other background did you
18 have in the fitness industry prior to
19 joining Equinox?

20 A. I've been in the industry about
21 sixteen years.

22 Q. So prior to Virgin Active and
23 Nuffield Health, where had you been last
24 employed?

25 A. I had been employed at David

1 ASHDOWN

2 Lloyd Leisure at some point. I had been
3 with Virgin Active prior to that as a
4 fitness manager at three locations. I had
5 been with Corals Health Club as well.

6 Q. At any of those locations, did
7 you perform personal training sessions?

8 A. Yes.

9 Q. Which ones?

10 A. At Virgin Active when I was a
11 fitness manager and when I was at Holmes
12 Place in Epsom.

13 Q. What was the year that you were
14 the fitness manager at Virgin Active?

15 A. I couldn't tell you the exact
16 dates. It's on my resume.

17 Q. With respect to your duties as
18 a fitness manager, what percentage would
19 you say were administrative versus what
20 percentage was for personal training?

21 A. There was very little personal
22 training. It was just one or two hours a
23 week. The majority of my job was
24 managerial. It was the manager shift, so I
25 used to have to open the club. It was

1 ASHDOWN

2 managing the team, education of the team.

3 Q. I'm sorry. Was it Holmes
4 Place?

5 A. Holmes Place, yes.

6 Q. When were you employed there?

7 A. Again it's on my resume. I
8 can't give you an exact date.

9 Q. I'm sorry. You may have
10 answered already, but what was your
11 position there?

12 A. Fitness manager.

13 Q. With respect to your duties as
14 a fitness manager, --

15 A. Same.

16 Q. (Continuing) what was the
17 percentage that was administrative versus
18 personal training?

19 A. About the same, probably about
20 five hours a week.

21 Q. Prior to commencing your
22 employment with Equinox, did you have any
23 certifications with respect to personal
24 training?

25 A. I have an NASM certification.

1 ASHDOWN

2 I have a master's degree in sports medicine
3 and science. I have a premiere diploma in
4 personal training. I have numerous fitness
5 certifications in studio classes as well.

6 Q. Where did you receive your
7 master's degree?

8 A. Roehampton.

9 Q. That's in London?

10 A. Mmhmmm, yes.

11 Q. When were you first diagnosed
12 with cancer?

13 A. Nine years ago.

14 Q. Where were you employed at the
15 time?

16 A. Whew, I couldn't even -- I
17 couldn't even tell you.

18 Q. What type of cancer were you
19 diagnosed with?

20 A. Ovarian.

21 Q. Who made the diagnosis?

22 A. Dr. Griffin.

23 Q. Where is Dr. Griffin located?

24 A. He's in London.

25 Q. What type of treatment did you

1 ASHDOWN

2 undergo, if any, after you were diagnosed?

3 A. I had radiation.

4 Q. How many sessions?

5 A. Back then I couldn't be sure.

6 Q. For how long? Over what period
7 of time?

8 A. Again I cannot recall the exact
9 amount of time.

10 Q. Was it more than a month? Was
11 it more than a year?

12 A. It was more than a month. It
13 was less than a year. It was more than a
14 month.

15 Q. Was it less than six months?

16 A. I don't -- I don't recall.

17 Q. Did you have any surgeries?

18 A. I've had surgeries.

19 MR. HARMAN: Alright, just
20 focussing on the time nine years ago?

21 THE WITNESS: Mmhmmm, yes.

22 Q. When were your surgeries?

23 A. I couldn't tell you the exact
24 dates.

25 Q. Have there been any in the last

1 ASHDOWN

2 three years?

3 A. No.

4 Q. Any in the last five years?

5 A. Not that I recall, no.

6 Q. How soon after your diagnosis
7 was your first surgery?

8 A. I can't -- I can't recall the
9 date.

10 Q. Was it within a year or
11 something more?

12 A. It was the second time I had
13 cancer.

14 Q. What type of surgery did you
15 have?

16 A. I had one of my ovaries
17 removed.

18 Q. Where was that performed?

19 A. In the hospital.

20 Q. Where? In which hospital?

21 A. It was the Royal Marsden in
22 London.

23 Q. You mentioned it was the second
24 time you had cancer?

25 A. Yes.

1 ASHDOWN

2 Q. Did your original diagnosis of
3 cancer go into remission at some point?

4 A. It went into remission and then
5 it came back.

6 Q. How long after it went into
7 remission did it come back?

8 A. Approximately a year and a
9 half.

10 Q. After that second re-diagnosis,
11 did you have any other treatment besides
12 the surgery?

13 A. I had more radiation.

14 Q. Approximately how long was your
15 treatment following the second diagnosis?

16 A. I don't recall exactly how long
17 my treatment was. It's a long time ago.

18 Q. Did your cancer again go into
19 remission?

20 A. It went into remission.

21 Q. Was there a third diagnosis?

22 A. There was a third diagnosis.

23 Q. When was that?

24 A. I can't give you specific dates
25 on this.

1 ASHDOWN

2 Q. Was this before or after you
3 joined Equinox?

4 A. Before.

5 Q. How many diagnoses have you had
6 altogether?

7 A. Four.

8 Q. Four, okay, and were you still
9 in London when the third diagnosis was
10 made?

11 A. Mmhmmm, yes.

12 Q. What type of treatment or
13 surgeries did you have?

14 A. I had radiation.

15 Q. Was Dr. Griffin still your
16 doctor?

17 A. Yes.

18 Q. For all three of these
19 diagnoses?

20 A. He's still my doctor.

21 Q. Following that third diagnosis,
22 did you go into remission at some point?

23 A. I went into remission.

24 Q. When approximately was that?

25 A. I couldn't give you the date.

1 ASHDOWN

2 Q. Was that before or after you
3 began your employment with Equinox?

4 A. It was before.

5 Q. Your fourth re-diagnosis was
6 while you were employed at Equinox, is that
7 correct?

8 A. It was.

9 Q. When did you first have contact
10 with Equinox?

11 A. It was, I believe, April, 2010.

12 Q. Did you contact Equinox or did
13 they contact you?

14 A. I contacted Equinox.

15 Q. Who did you contact?

16 A. Johanna Subotovsky.

17 Q. Subotovsky?

18 A. Subotovsky, that's the one.

19 Q. How did you contact her?

20 A. Via E-mail.

21 Q. How did you hear about Equinox
22 and Ms. Subotovsky?

23 A. I Googled fitness jobs in New
24 York.

25 Q. Why were you interested in

1 ASHDOWN

2 becoming employed with Equinox?

3 A. I wanted to move to New York
4 and I was aware that they were one of the
5 best fitness companies in the city.

6 Q. Where were you working at the
7 time?

8 A. Virgin Active and Nuffield
9 Health, but actually I don't believe I
10 started at Virgin Active yet.

11 Q. Did you go through an interview
12 process with Equinox?

13 A. I did a telephone interview
14 with Johanna and I then flew to New York
15 and interviewed with Joe Matarazzo and Liz
16 Minton.

17 Q. When you interviewed with
18 Equinox, did you disclose any of your prior
19 medical history with respect to your
20 cancer?

21 A. I don't believe it came up, no.

22 Q. You were ultimately hired by
23 Equinox, is that correct?

24 A. I was.

25 Q. For what position?

1 ASHDOWN

2 A. Personal training manager.

3 Q. You obtained an H-B1 to work
4 for Equinox, is that correct?

5 A. I did.

6 Q. Did you move to New York City
7 at some point?

8 A. I did.

9 Q. When?

10 A. It was Martin Luther King Day.

11 Q. Which year?

12 A. 2011.

13 Q. When did you -- I may have
14 asked you this already and I apologize if I
15 did -- when did you officially begin
16 working for Equinox?

17 A. It was the day after Martin
18 Luther King Day.

19 Q. At which location?

20 A. Originally I went for two weeks
21 training and then I started working in
22 SoHo.

23 Q. Where was your two weeks
24 training?

25 A. At the head office.

1 ASHDOWN

2 Q. Did you work at the 19th Street
3 club at all?

4 A. I did do some work at 19th
5 Street.

6 Q. Did you sign any documents in
7 connection with your employment at Equinox?

8 A. At that point I don't remember,
9 no. I did when I got to SoHo.

10 Q. Did you actually interview at
11 the Soho club?

12 A. I interviewed with Lawrence
13 Sanders.

14 Q. Anybody else?

15 A. No.

16 Q. Did you meet with anybody else?

17 A. Matt Plotkin before I went to
18 SoHo.

19 Q. How many interviews did you
20 have with Mr. Sanders?

21 A. Just one.

22 Q. You met with him at the club?

23 A. I met with him at the club.

24 Q. Matt Plotkin, how many
25 interviews did you have with him?

1 ASHDOWN

2 A. Just the one.

3 Q. Where did you meet him?

4 A. 19th Street.

5 MR. McPARTLAND: Let's mark
6 this as Exhibit B.

7 (Whereupon, the aforementioned
8 document was marked as Defendant's
9 Exhibit B for identification, as of
10 this date, by the court reporter.)

11 Q. Ms. Ashdown, I'm going to show
12 you a five-page document that's been marked
13 as Defendant's Exhibit B. On the bottom of
14 the document you'll see that it's been
15 marked with Bates stamp numbers EQX-6377
16 through EQX-6381 and I ask you to take a
17 look at that document (indicating).

18 A. Okay.

19 Q. Do you recognize that document?

20 A. Yep.

21 Q. Referring to the final page of
22 that document, EQX-6381, is that your
23 signature?

24 A. It is.

25 Q. Is that your handwriting on the

1 ASHDOWN

2 final page and on the first page?

3 A. Yes, it is.

4 MR. McPARTLAND: Mark this one
5 now.

6 (Whereupon, the aforementioned
7 document was marked as Defendant's
8 Exhibit B for identification, as of
9 this date, by the court reporter.)

10 Q. Ms. Ashdown, I'm going to show
11 you a two-page document. It's been marked
12 as Defendant's Exhibit C. It's got Bates
13 stamp numbers EQX-6382 through EQX-6383. I
14 want you to take a look at that document as
15 well (indicating).

16 A. Yeah.

17 Q. Do you recognize that document?

18 A. Yeah.

19 Q. What is it?

20 A. It's a Harassment Policy.

21 Q. On the second page, did you
22 sign that document?

23 A. I did.

24 Q. Did you date it as well?

25 A. I did.

1 ASHDOWN

2 Q. What's the date of the
3 document?

4 A. January 19, 2011.

5 MR. McPARTLAND: Mark that.

6 (Whereupon, the aforementioned
7 document was marked as Defendant's
8 Exhibit D for identification, as of
9 this date, by the court reporter.)

10 Q. I'm going to show you a
11 one-page document with Bates stamp number
12 EQX-6384. It's been marked as Defendant's
13 Exhibit D (indicating).

14 A. Yeah.

15 Q. Do you recognize this document?

16 A. I do.

17 Q. What is it?

18 A. It's a Receipt of Employee
19 Handbook.

20 Q. Is that your signature that
21 appears on the bottom page of the document?

22 A. Yes, it is.

23 Q. Is that your handwriting with
24 the date and the employee name?

25 A. Yes, it is.

1 ASHDOWN

2 Q. Did you receive a copy of the
3 Employee Handbook?

4 A. I believe I received it via
5 E-mail.

6 MR. McPARTLAND: Mark that as
7 Exhibit E.

8 (Whereupon, the aforementioned
9 document was marked as Defendant's
10 Exhibit E for identification, as of
11 this date, by the court reporter.)

12 Q. I'm going to show you a
13 two-page document that's been marked as
14 Defendant's Exhibit E. It has the Bates
15 stamp numbers P006 and P007. I ask you to
16 take a look at that document (indicating).

17 A. Yeah.

18 Q. Do you recognize that document?

19 A. I do.

20 Q. What is it?

21 A. It's my contract with SoHo or
22 my offer letter from SoHo.

23 Q. Did you sign that document on
24 the second page?

25 A. I did.

1 ASHDOWN

2 Q. Is that your handwriting where
3 the date is located as well?

4 A. It is.

5 Q. Referring to Exhibit D, is that
6 your base salary reflected on that
7 document?

8 A. No.

9 Q. I refer you to the second
10 paragraph of the first page. I'm sorry.
11 It's Exhibit E.

12 A. It is, yes.

13 Q. What was your base salary?

14 A. 49,000.

15 Q. In addition to your \$49,000.00
16 base salary, did you also receive
17 performance bonuses?

18 A. Yes.

19 Q. Were there also to be
20 commissions on personal training sessions?

21 A. Yes.

22 MR. McPARTLAND: Mark that as
23 Exhibit F.

24 (Whereupon, the aforementioned
25 document was marked as Defendant's

1 ASHDOWN

2 Exhibit F for identification, as of
3 this date, by the court reporter.)

4 Q. Ms. Ashdown, I'm going to show
5 you a three-page document that's marked
6 with Bates stamp numbers EQX-6392 through
7 EQX-6394 that's been marked as Defendant's
8 Exhibit F for identification. I want you
9 to take a look at that document
10 (indicating).

11 A. Thank you, yeah.

12 Q. Do you recognize this document?

13 A. I do.

14 Q. What is it?

15 A. It's a Compensation Plan.

16 Q. Does this set forth your
17 compensation for your employment at
18 Equinox?

19 A. For Soho, yes.

20 Q. For Soho, yes?

21 A. Yes.

22 Q. With respect to your bonuses,
23 what were your bonuses based on?

24 A. Hitting the target.

25 Q. When you say, "Hitting the

1 ASHDOWN

2 target," what target are you referring to?

3 A. Personal training sessions.

4 Q. That would be the amount of
5 personal training sessions that were
6 performed that generated revenues from
7 those personal training sessions, is that
8 correct?

9 A. Mmmmmm, yes.

10 Q. With respect to your bonus
11 timing, was that on a monthly basis, a
12 quarterly basis or something else?

13 A. Some were monthly. Some were
14 quarterly.

15 Q. Does this also reflect your
16 payments for your commissions for personal
17 training sessions performed?

18 A. I have to read the document.
19 Hold on. Oh, yes, it does.

20 Q. Where is that reflected?

21 A. On the last page.

22 Q. What does it say?

23 A. It says that I'll be paid a
24 tier three rate at \$52.00 per session.

25 Q. What does tier three refer to?

1 ASHDOWN

2 A. The level of training that you
3 are at.

4 Q. How many tiers were there at
5 Equinox?

6 A. Four.

7 Q. What were your duties and
8 responsibilities as a personal training
9 manager at the SoHo club?

10 A. I managed all the personal
11 trainers, I trained them on sales,
12 education, I helped generate leads and new
13 business and helped them grow their
14 business.

15 Q. Who were your supervisors?

16 A. My superior or somebody
17 supervising me?

18 Q. Yes, your supervisors
19 supervising you.

20 A. Lawrence Sanders.

21 Q. Did you have any other
22 supervisors or any other persons who had
23 supervisory authority over you?

24 A. Joe Matarazzo,
25 M-A-T-A-R-A-Z-Z-O, I do believe.

1 ASHDOWN

2 Q. Who was Liz Minton?

3 A. Liz Minton was the national
4 personal training development manager.

5 Q. Did she have any oversight with
6 respect to your position?

7 A. She did. I believe she
8 focussed more on the fitness managers than
9 the personal training managers and Joe
10 focussed more on the personal training
11 managers.

12 Q. So what was your understanding
13 of Liz's duties and responsibilities?

14 A. Training and development for
15 the personal training department.

16 Q. How often would you interact
17 with Ms. Minton?

18 A. Fairly regular.

19 Q. On a weekly basis, a daily
20 basis or something else?

21 A. I'll say weekly.

22 Q. For what reasons would you
23 interact with her?

24 A. Whether it would be staff
25 members, how they were progressing, manager

1 ASHDOWN

2 in training, she used to run the manager in
3 training program, I had a manager in
4 training at my club and, yeah.

5 Q. How would you describe your
6 working relationship with Ms. Minton?

7 A. Good.

8 Q. Who was David Harris?

9 A. He was the top in the chain in
10 personal training.

11 Q. What was his position?

12 A. I couldn't even tell you his
13 exact title. I don't want to get it wrong.

14 Q. What was your understanding of
15 his duties and responsibilities?

16 A. He was in charge of Liz and
17 Joe.

18 Q. How often would you interact
19 with Mr. Harris, if at all?

20 A. Very, very, very rarely.

21 Q. Would that be a monthly basis?

22 A. It wouldn't even be a monthly
23 basis.

24 Q. Over the course of your
25 employment, how many times did you interact

1 ASHDOWN

2 with him, would you say?

3 A. I saw him more in my first few
4 weeks than I did the rest of my employment.

5 Q. For what reasons would you
6 interact with him?

7 A. I helped him with information
8 for the London club.

9 Q. Did you interact with him at
10 all for any reason with respect to the SoHo
11 club?

12 A. Only if he popped in at the
13 club.

14 Q. You mentioned Joe Matarazzo.
15 What was his role?

16 A. He was in charge of personal
17 training.

18 Q. How often would you interact
19 with Mr. Matarazzo?

20 A. We had conference calls weekly.

21 Q. What were the purposes of those
22 conference calls?

23 A. Every personal training manager
24 in his region would get on the phone call
25 and discuss where we're at with the

1 ASHDOWN

2 training or hitting our targets.

3 Q. Were they sales calls?

4 A. They were calls we used to
5 discuss staffing, how many staff we had,
6 what was in the pipeline, how many sales we
7 were predicting for the week, how things
8 were going, et cetera, et cetera.

9 Q. Did Mr. Matarazzo oversee the
10 interest of the New York City area or was
11 this a national call?

12 A. No, it was just on my calls it
13 was just New York City and it wasn't every
14 club in New York City.

15 Q. Approximately how many other
16 personal training managers --

17 A. I think there was about nine of
18 us.

19 Q. (Continuing) would be on the
20 calls? About nine?

21 A. Yes.

22 Q. Other than these weekly phone
23 calls, what other interactions did you have
24 with Mr. Matarazzo?

25 A. E-mails.

1 ASHDOWN

2 Q. What would be the subjects of
3 those E-mails?

4 A. Whether I had a personal
5 training incentive, what I wanted to do
6 with my team, whether I had any issues with
7 my staff, pretty much those kinds of
8 things.

9 Q. How would you describe your
10 working relationship with Mr. Matarazzo?

11 A. Okay.

12 Q. Who was Matt Plotkin?

13 A. He was the regional club
14 manager or area club manager, one of the
15 two.

16 Q. What was your understanding of
17 his role?

18 A. He was in charge of Lawrence
19 Sanders.

20 Q. Would you interact with Mr.
21 Plotkin at all?

22 A. When he came to the club I did,
23 yes.

24 Q. How frequently would that be?

25 A. I would say he was in every

1 ASHDOWN

2 month.

3 Q. For what reasons would you
4 interact with him?

5 A. It was making pleasant
6 conversation with him.

7 Q. Any business reasons?

8 A. It was again about my team. If
9 I had an incentive I wanted to incentivize
10 my staff with, I used to run it by him too.

11 Q. How would you describe your
12 working relationship with Mr. Plotkin?

13 A. Okay.

14 Q. At the time that you were hired
15 at the SoHo club, there were other
16 managers, correct?

17 A. Correct.

18 Q. For several departments?

19 A. Yes.

20 Q. Which other departments were
21 there managers for?

22 A. Sales and there was a studio
23 manager, there was a spa manager, a
24 maintenance manager and I can't think about
25 anything else.

1 ASHDOWN

2 Q. Who was the group fitness
3 manager?

4 A. Liz Lafleur (phonetically
5 spelled) if I remember right her last name.

6 Q. Who was the maintenance
7 manager?

8 A. Angel, but I can't remember his
9 last name.

10 Q. Who was the sales manager?

11 A. Tessa Spaar, I think it's
12 S-P-A-A-R.

13 Q. Who was the spa manager?

14 A. Bobbie Carlson (phonetically
15 spelled) and there was an assistant
16 manager.

17 Q. Assistant general manager?

18 A. Uh-huh, yes.

19 Q. Who was that?

20 A. Lauren Buck (phonetically
21 spelled), but I can't remember who was
22 there prior to her and obviously a fitness
23 manager, Mauro Maietta, M-A-U-R-O
24 M-A-I-E-T-T-A.

25 Q. With respect to Mr. Maietta,

1 ASHDOWN

2 was he employed at the club prior to the
3 date you joined?

4 A. Yes, he was.

5 Q. As the fitness manager, what
6 were his duties and responsibilities?

7 A. He was more involved with
8 training of new employees.

9 Q. What would that involve?

10 A. Helping them go through their
11 education to get their certification.

12 Q. Did he handle client
13 programming?

14 A. Yes.

15 Q. What other duties?

16 A. Payroll.

17 Q. What were his duties with
18 respect to payroll?

19 A. He paid the staff on a biweekly
20 basis.

21 Q. How did he go about doing that?

22 A. He had to enter a payroll
23 system.

24 Q. Did Mr. Maietta have prior
25 experience with Equinox?

1 ASHDOWN

2 A. Yes.

3 Q. Do you know if it was for an
4 extended period of time or not?

5 A. I believe it was around four to
6 five years, but I couldn't be sure on the
7 exact dates.

8 Q. How closely were you required
9 to work with Mr. Maietta as the personal
10 training manager and the fitness manager?

11 A. I was his direct superior so
12 closely.

13 Q. Did you work together on a
14 daily basis?

15 A. Yes.

16 Q. Did you share an office?

17 A. Yes.

18 Q. Based on Mr. Maietta's prior
19 experience in Equinox, did you feel that he
20 could assist you in helping to learn the
21 company and the brand at all?

22 A. I did initially.

23 Q. Did you have conversations with
24 him about that?

25 A. I did.

1 ASHDOWN

2 Q. Did you ever tell Mr. Sanders
3 that there was nothing that Mr. Maietta
4 could teach you?

5 A. I don't recall saying that.

6 Q. Did you ever say that to
7 anybody else?

8 A. I don't recall saying that.

9 Q. How many personal trainers ran
10 the staff at the Soho club?

11 A. It varied approximately between
12 forty to forty-six. It goes up and down.

13 Q. Were you responsible for hiring
14 any personal trainers?

15 A. Yes, we both were. We
16 interviewed together.

17 Q. You and Mr. Maietta?

18 A. Yes.

19 Q. Approximately how many personal
20 trainers would you say that you hired
21 during the course of your employment?

22 A. I have no idea. I have no
23 idea.

24 Q. Of the personal trainers, what
25 was the percentage of males versus females,

1 ASHDOWN

2 if you recall?

3 A. I recall it was around
4 two-thirds males, two-thirds females, maybe
5 a little bit more males. That's an
6 approximate guess.

7 Q. By the way, did the fitness
8 manager also receive performance bonuses
9 based on whether the personal training
10 department met its monthly or quarterly
11 sales goals?

12 A. I believe he did.

13 Q. What was your work schedule at
14 the club?

15 A. Mine?

16 Q. Yes.

17 A. I got to the club approximately
18 5:30 most days. I left around about 9:00
19 P.M. most evenings.

20 Q. Which days of the week were you
21 scheduled to work?

22 A. Monday through Thursday and
23 Saturday.

24 Q. Did that remain, more or less,
25 your daily schedule throughout the time of

1 ASHDOWN

2 your employment?

3 A. Yeah, I also worked Friday on
4 my day off.

5 Q. Yes, but your official days at
6 work during the course of your employment
7 were Monday through Thursday and Saturday,
8 correct?

9 A. Yes.

10 Q. What was Mr. Maietta's schedule
11 at the club?

12 A. Monday through Thursday, no,
13 Monday through Wednesday, Friday and
14 Sunday.

15 Q. At some point did you and Mr.
16 Maietta begin to have any types of
17 conflicts or issues at work?

18 A. Yes.

19 Q. Now when did those issues
20 begin?

21 A. I can't give you an exact date.
22 I don't recall the exact date.

23 Q. Was it within the first month
24 of your employment?

25 A. It was a couple of months in, I

1 ASHDOWN

2 believe.

3 Q. What were the issues?

4 A. He's very competitive. We
5 didn't agree on all things.

6 Q. When you say that he was very
7 competitive, can you elaborate on that?

8 A. He didn't like the fact that I
9 got the job over him, it was a competition
10 in popularity and he believed he could do a
11 better job than I could.

12 Q. When you say that he did not
13 like that you got the job instead of him,
14 do you know whether he applied for that
15 personal training manager position?

16 A. I'm not a hundred percent sure,
17 no.

18 Q. Did he ever tell you that he
19 applied for the personal training manager
20 position?

21 A. No, but I knew he wanted to be
22 a personal training manager.

23 Q. Did anybody ever tell you that
24 he applied for that position?

25 A. Not that I'm aware of.

1 ASHDOWN

2 Q. So when you say that you were
3 aware that he wanted to become a personal
4 training manager, how did you get that
5 knowledge?

6 A. He told me.

7 Q. Do you find it unusual that a
8 fitness manager would want to advance to
9 become a personal training manager?

10 A. Not at all.

11 MR. HARMAN: Objection.

12 You can answer.

13 THE WITNESS: I can?

14 MR. HARMAN: Yes.

15 A. Not at all.

16 Q. When you said that there was a
17 competition as to popularity, could you
18 elaborate by what you mean there?

19 A. Some of the team did not like
20 him so much. He felt it was a competition
21 of popularity as to who liked me versus who
22 liked him, which we should be working
23 together as a team. There should not be a
24 competition.

25 Q. Which members of the team

1 ASHDOWN

2 didn't like him?

3 A. I can't remember off the top of
4 my head.

5 Q. Did they communicate that to
6 you?

7 A. Some did.

8 Q. Do you remember the name of
9 anybody that communicated that to you?

10 A. Not off the top of my head, no.

11 Q. When you say that he felt that
12 it was a competition in popularity, what
13 did he do or say to --

14 A. He told me.

15 Q. He told you that?

16 A. Mmhmmm, yes.

17 Q. Did he do anything that made
18 you come to that conclusion?

19 A. No, but he was also very
20 competitive with the staff.

21 Q. In what way was he competitive
22 with the staff?

23 A. Trying to compete with them in
24 fitness competitions and beating them and
25 putting them down.

1 ASHDOWN

2 Q. What type of fitness
3 competitions?

4 A. Just who can lift the most
5 weight, who can run the hardest, who can
6 even in team bowling if we went out team
7 bowling, always competitive.

8 Q. What did Mr. Maietta say or do
9 to make you believe that he felt that he
10 could do a better job as a personal
11 training manager than you could?

12 MR. HARMAN: Objection.

13 You can answer.

14 A. Because he had been with the
15 company longer.

16 Q. Anything else?

17 A. Not that I can recall.

18 Q. With respect to the competition
19 with the staff, do you have any other
20 specific examples of things that he said or
21 did?

22 A. Like I said, it was just after
23 events it was always putting them down.

24 Q. He was always what? I'm sorry.

25 A. Putting them down, so he would

1 ASHDOWN

2 constantly reiterate as to what he had
3 achieved and what they hadn't achieved.

4 Q. Did you participate in any of
5 these competitions?

6 A. Only ten-pin bowling.

7 Q. I'm sorry?

8 A. Only ten-pin bowling.

9 Q. Only in? Sorry.

10 A. Bowling.

11 Q. Bowling, okay.

12 A. You don't call it ten-pin
13 bowling here?

14 Q. No.

15 A. I'm sorry. It's a British
16 name.

17 Q. Did you have any other issues
18 with Mr. Maietta besides these three that
19 you have identified?

20 A. We didn't agree on how to
21 manage the team.

22 Q. What were your areas of
23 disagreement?

24 A. He likes disciplining them and
25 writing them all out whereas my management

1 ASHDOWN

2 style is to coach and encourage.

3 Q. Anything else that he said or
4 did that brought you to this conclusion
5 that he didn't agree with you on how to
6 manage the team?

7 A. We used to just disagree on it
8 all the time.

9 Q. Did you have any other types of
10 issues with Mr. Maietta?

11 A. Not that I can think of off the
12 top of my head.

13 Q. What is client programming?

14 A. So it's the program that you
15 would give over a six-week period and then
16 you go through different phases of
17 training, so you're taking your client
18 through different cycles of training, how
19 to get them to achieve their goal, so he
20 would teach them through that cycle of
21 programming phase and then would audit
22 their program design to make sure that
23 there is consistency to what has been
24 given.

25 Q. When you say "he", you're

1 ASHDOWN

2 referring to Mr. Maietta?

3 A. Yes.

4 Q. So Mr. Maietta was in charge?

5 A. He was in charge of training
6 the new employees on that and then doing
7 spot checks on their training program.

8 Q. Okay, so he would help them
9 develop their programs for clients, is that
10 correct?

11 A. Yes.

12 Q. Then they would actually draw
13 up written programs for their clients?

14 A. They would.

15 Q. He would review those and
16 critique them?

17 A. He would spot-check them.

18 Q. As the personal training
19 manager providing personal training
20 sessions at the club, were you required to
21 create programs for your clients?

22 A. I was.

23 Q. Did you actually create those
24 programs?

25 A. I did.

1 ASHDOWN

2 Q. Where did you store those
3 programs?

4 A. In my folder on the computer.

5 Q. I'm sorry. Where?

6 A. In my folder on my computer.

7 Q. Was that the name of the actual
8 computer folder, "my folder"?

9 A. It was under my set of
10 documents. I couldn't tell you the exact
11 name of the folder that I stored them in.

12 Q. Was Mr. Maietta responsible for
13 reviewing your clients' programs?

14 A. No, he wasn't required to.

15 Q. I'm sorry?

16 A. He wasn't required to.

17 Q. How would you describe your
18 programming skills at the time?

19 A. I think I'm good at what I do.

20 Q. Strong?

21 A. I think I'm good at what I do.

22 Q. So during the course of your
23 employment with Equinox, would you say that
24 you wrote good programs for your clients?

25 A. I did.

1 ASHDOWN

2 Q. Would you say it was a tier
3 three level programming?

4 A. I do.

5 Q. Were the personal trainers
6 required to keep their programming in
7 certain files so that Mr. Maietta could
8 review them?

9 A. They were.

10 Q. Was that on a shared server?

11 A. It was.

12 Q. Was there a reason why you
13 didn't maintain your programming on that
14 shared server?

15 A. I was never required to.

16 Q. When you say you were never
17 required to, did you ever have that
18 discussion with anybody?

19 A. I was asked by Lawrence Sanders
20 to move them there because Mauro had
21 complained about my programming.

22 Q. When did you have this
23 conversation with Mr. Sanders?

24 A. I can't recall the date.

25 Q. When you say that Mauro had

1 ASHDOWN

2 complained about your programming, what
3 were you told by Mr. Sanders?

4 A. Exactly that.

5 Q. Was the complaint that your
6 programming wasn't available to be viewed
7 or was it a complaint about your
8 programming?

9 A. No, because no other personal
10 training manager had to have it on a shared
11 server and I had spoken to another personal
12 training manager to see if theirs had been.

13 Q. Okay, but was he complaining
14 about the fact that your programming wasn't
15 available for him to view or was he
16 complaining about your programming?

17 A. He was just complaining about
18 me.

19 Q. About your programming or the
20 fact that he couldn't see it?

21 A. About my programming.

22 Q. If he couldn't see your
23 programming, do you know how he made this
24 complaint?

25 A. No.

1 ASHDOWN

2 Q. What did you tell Mr. Sanders
3 in response?

4 A. I told him that I had spoken to
5 another personal training manager and I
6 don't understand why. I will put them in
7 there if need be, but I don't understand
8 why I'm being singled out.

9 Q. Did you, in fact, move your
10 programming over to the shared server?

11 A. I can't remember to be honest.

12 Q. Did Mr. Sanders instruct you to
13 do that?

14 A. We had a discussion about it.

15 Q. Did you have any discussions
16 with Liz Minton about it?

17 A. I met with Liz Minton about my
18 issues regarding Mauro.

19 Q. Okay, we'll get to that.

20 Did you train with an Equinox
21 trainer?

22 A. I trained with Ryan Hopkins.
23 In fact, that question, when I first
24 started I trained with pretty much
25 everybody.

1 ASHDOWN

2 Q. For your own personal training?

3 A. No, because I wanted to find
4 out all their styles of training so that I
5 could help with them.

6 Q. Did you ever consult Mr.
7 Maietta about any assistance with creating
8 programming?

9 A. No.

10 Q. Did Equinox provide training
11 for client programming?

12 A. My programs had been forwarded
13 before I even got here. If I remember
14 right, before I got here I forwarded my
15 programs, my current programs, before I
16 even started working here.

17 Q. No, but my question is did
18 Equinox provide training for client
19 programming?

20 A. Not that I recall, no.

21 Q. You trained with Ryan Hopkins
22 for how long and how frequently?

23 A. I can't remember the exact
24 period of time, but occasionally it was
25 twice a week, not every week though.

1 ASHDOWN

2 Q. Was it throughout the course of
3 your employment or something different?

4 A. It wasn't the whole period of
5 my whole employment, no.

6 Q. Why did you train with Mr.
7 Hopkins?

8 A. Because when I initially
9 started I trained with every single or
10 pretty much every one of my staff and I
11 liked his style of training.

12 Q. Would you consider it unusual
13 for a personal training manager to need a
14 personal trainer?

15 A. No, it happens across the
16 board. The manager at 19th Street also had
17 one.

18 Q. What was your relationship with
19 Mr. Hopkins?

20 A. He was my trainer. He was also
21 my employee.

22 Q. Did you have any social
23 relationship with him or romantic
24 relationship?

25 A. No.

1 ASHDOWN

2 Q. Were you ever flirtatious or
3 did you ever do anything inappropriate with
4 him?

5 MR. HARMAN: Objection.

6 A. No.

7 Q. How did you pay Mr. Hopkins for
8 those sessions?

9 A. Initially one of my clients
10 pulled sessions for him, which was cleared
11 and discussed with Lawrence Sanders, and
12 then I paid for sessions.

13 Q. You said initially one of your
14 clients pulled sessions?

15 A. Yes, I can't remember exactly
16 who did it though. It was somebody, yeah,
17 and Lawrence Sanders agreed to that.

18 Q. Yes, but can you elaborate?
19 When you say he purchased sessions for you,
20 this club member purchased sessions for you
21 to use?

22 A. Yes, but he didn't pull them
23 for me. He pulled them for Ryan, so Ryan
24 got paid for the sessions.

25 Q. For how many personal training

1 ASHDOWN

2 sessions did you have that arrangement?

3 A. I can't remember exactly now.

4 Q. How much did this member pay
5 for those personal training sessions?

6 A. It would have been a tier three
7 package.

8 Q. How many training sessions?

9 A. I can't remember.

10 Q. Why did the member purchase
11 these for you?

12 A. To have training sessions with
13 me.

14 Q. I'm sorry?

15 A. To have training sessions with
16 me.

17 Q. Yes, but he purchased them for
18 you to use with Mr. Hopkins, correct?

19 A. No, he purchased them to train
20 with me, but he used to pull the sessions
21 from Mr. Hopkins so that Ryan got paid and
22 I didn't pay Ryan.

23 Q. When did you have this
24 discussion with Mr. Sanders?

25 A. Before the first session even

1 ASHDOWN

2 got pulled with Ryan, before I started
3 training with Ryan.

4 Q. When did you start training
5 with Ryan?

6 A. I can't remember the exact
7 date.

8 Q. Was it within a month of
9 commencing your employment?

10 A. I have no idea.

11 Q. Was it within two months?

12 A. I can't give you the exact
13 date. I don't recall.

14 Q. Did you ever lend any money to
15 Mr. Hopkins?

16 A. No.

17 Q. Did you ever lend any money to
18 any other personal trainers?

19 A. Yes.

20 Q. You've alleged in your
21 Complaint that Mr. Maietta falsely stated
22 that you were getting drunk with your
23 staff. What is the basis for this
24 allegation?

25 A. Well, I wasn't even allowed to

1 ASHDOWN

2 drink at the time, so I didn't even know
3 where that came from.

4 Q. Yes, but when you say that Mr.
5 Maietta falsely stated that you were
6 getting drunk with your staff, how did you
7 become aware that he said that?

8 A. Lawrence Sanders.

9 Q. When did Mr. Sanders tell you
10 that?

11 A. Again I can't recall the date.

12 Q. What exactly did Mr. Sanders
13 tell you?

14 A. He told me that it was brought
15 to his attention that I was partying and
16 getting drunk with my staff and that I
17 favored men over women.

18 Q. He said that Mauro Maietta told
19 him that?

20 A. He did.

21 Q. It's also alleged in your
22 Complaint that Mr. Maietta sent E-mails to
23 an incorrect dummy E-mail address?

24 A. He did.

25 Q. Can you explain that a little

1 ASHDOWN

2 further?

3 A. It first came to my attention
4 when I first started working there and
5 Jessica Dart (phonetically spelled) brought
6 it to my attention who I was taking over
7 from and then I had asked Mauro to work the
8 last day of the month to help achieve the
9 target and he refused and then called
10 Lawrence Sanders to complain that I hadn't
11 returned any of his E-mails, so I had
12 mentioned to Lawrence that this had been
13 brought to my attention before that he had
14 sent E-mails to a fake address, so Lawrence
15 asked him to forward him the E-mails that
16 he had sent. He said once he sends an
17 E-mail from his Blackberry that it
18 automatically deletes, so Lawrence with me
19 went down to my office, logged onto Mauro's
20 computer, went into his E-mails and saw for
21 himself in black and white that the E-mails
22 had been sent to an address that I didn't
23 even have.

24 Q. You said that you learned this
25 from Jessica Dart. What was her

1 ASHDOWN

2 involvement?

3 MR. HARMAN: Objection. I
4 don't think that's what the testimony
5 was.

6 MR. McPARTLAND: Okay, I'll
7 rephrase it.

8 Q. What did Jessica Dart tell you
9 about Mr. Maietta sending E-mails to an
10 incorrect dummy E-mail address?

11 A. I hadn't received the E-mails.
12 She had. She replied to all. We noticed
13 that it wasn't my E-mail address.

14 Q. How long was Ms. Dart still at
15 the club after you began your employment?

16 A. We did a four-day hand-over
17 period, a three or four-day hand-over
18 period.

19 Q. So this was essentially right
20 at the beginning of your employment, is
21 that correct?

22 A. Yes.

23 Q. As a personal training manager,
24 did you feel that you had any
25 responsibility to make your relationship

1 ASHDOWN

2 with Mr. Maietta as the fitness manager
3 work?

4 A. I tried.

5 Q. What did you do to repair the
6 relationship?

7 A. I called a meeting with Ms.
8 Minton to discuss it. I then took him out
9 to lunch to try to get out of the building
10 and talk it through with him.

11 Q. Was that your idea to take him
12 out for lunch --

13 A. It was.

14 Q. Continuing or were you
15 instructed to do so?

16 MR. HARMAN: Let him finish his
17 question and then you can answer.

18 THE WITNESS: Sorry.

19 Q. Was it your idea to take him
20 out to lunch or were you instructed to do
21 so?

22 A. It was my idea.

23 Q. Did you have any meetings with
24 Lawrence Sanders about any of these issues
25 with Mr. Maietta?

1 ASHDOWN

2 A. I did.

3 Q. When did those meetings occur?

4 A. I can't recall the exact dates
5 for you.

6 Q. Approximately how many meetings
7 or discussions with him did you have?

8 A. Several.

9 Q. Was anybody else present?

10 A. No.

11 Q. During any of them?

12 A. No.

13 Q. What did you tell Mr. Sanders?

14 A. I was obviously concerned of
15 how our work relationship was.

16 Q. Did you ever tell Mr. Sanders
17 that Mr. Maietta did not like being
18 supervised by a woman?

19 A. I don't recall that
20 conversation.

21 Q. Did you ever tell Mr. Sanders
22 that Mr. Maietta wanted to take your
23 position as a personal training manager?

24 A. I think Lawrence Sanders was
25 aware that he wanted the job.

1 ASHDOWN

2 Q. Yes, but my question is did you
3 ever tell that to Mr. Sanders?

4 A. I don't recall saying that.

5 Q. You also had meetings and
6 discussions with Ms. Minton?

7 A. I did. I called a meeting with
8 her.

9 Q. Approximately on how many
10 occasions did you meet with her to discuss
11 these issues with Ms. Minton?

12 A. One that I recall.

13 Q. Was anybody else present?

14 A. No.

15 Q. What was discussed at that
16 meeting?

17 A. It was discussed about the
18 E-mails that he had written, the comments
19 that he had made to Lawrence, the false
20 allegations that had been brought up.

21 Q. Did you ever tell Ms. Minton
22 that Mr. Maietta did not like being
23 supervised by a woman?

24 A. I don't recall saying that, no.

25 Q. Did you ever tell Ms. Minton

1 ASHDOWN

2 that he wanted to take your position as the
3 personal training manager?

4 A. I don't recall saying that, no.

5 MR. McPARTLAND: Mark that as

6 G.

7 (Whereupon, the aforementioned
8 document was marked as Defendant's
9 Exhibit G for identification, as of
10 this date, by the court reporter.)

11 Q. Other than Ms. Minton and Mr.
12 Sanders, did you have any discussions with
13 any other superiors at Equinox?

14 A. Not that I recall, no.

15 MR. HARMAN: Any other
16 discussions about anything?

17 Q. About Mr. Maietta, your issues
18 with Mr. Maietta at Equinox.

19 A. Not that I recall.

20 Q. I'm going to hand you a
21 one-page document, which is an E-mail chain
22 that's been marked as Defendant's Exhibit
23 G. It has Bates stamp EQX-3258
24 (indicating).

25 A. Okay.

1 ASHDOWN

2 Q. I ask you to take a look at
3 that.

4 A. Thank you, okay.

5 Q. Does this now refresh your
6 recollection as to when you had the meeting
7 with Ms. Minton?

8 A. Well, it's date stamped
9 clearly.

10 Q. Was that on July 25, 2011?

11 A. It is.

12 Q. Do you recall this discussion
13 referred to by Ms. Minton?

14 A. I remember the meeting, yeah.

15 Q. In the E-mail Ms. Minton
16 states, "We spent a few minutes discussing
17 the trainer rumors and ways to change
18 perception." Do you recall a discussion
19 regarding those issues?

20 A. I assume she means about
21 favoring the men over the women. I think
22 that was what it was concerning.

23 Q. With respect to ways to change
24 that perception, did you have any
25 discussion with Ms. Minton at this meeting

1 ASHDOWN

2 about ways to change the perception that
3 you were favoring men over women?

4 A. I believe we did, but I can't
5 remember what was said.

6 Q. On the second paragraph, Ms.
7 Minton states that you had a list of
8 instances involving Mr. Maietta. Do you
9 recall telling that to Ms. Minton?

10 A. Yeah.

11 Q. Did you actually have a written
12 list?

13 A. No.

14 Q. What instances did you explain
15 to Ms. Minton?

16 A. From what I can recall, it was
17 the E-mails, it was the false allegations,
18 it was about my training and it was about
19 the comments that he had made to Lawrence.

20 Q. Going down to the third to last
21 paragraph it says, "We discussed her zero
22 risk scores and she would like to retake as
23 she feels some do not reflect how she truly
24 sees things."

25 A. Mmmmm, yes.

1 ASHDOWN

2 Q. Do you recall the questions in
3 this regard?

4 A. I don't actually, no.

5 Q. In the third paragraph it says,
6 "I gave her," meaning you, "advice on how
7 to handle the conversation with Mauro
8 tomorrow and what an optimal PTM/FM
9 relationship would look like." Do you
10 recall that part of the conversation?

11 A. I don't remember what was
12 discussed, no.

13 Q. What are zero risk scores?

14 A. I can't remember exactly. We
15 answer a series of questions and it tells
16 you what kind of manager personality I
17 think you are, I believe. I can't exactly
18 remember.

19 Q. Did you eventually have a
20 meeting with Mr. Maietta?

21 A. I did. The following day I
22 took him for lunch.

23 Q. Where did you go?

24 A. A delicatessen.

25 Q. Nobody instructed you to go to

1 ASHDOWN

2 have that meeting, is that correct?

3 A. I asked him to have the meeting
4 and get out of the building. He didn't
5 want to, and as I said, I told him Liz told
6 him that he had to do it.

7 Q. Yes, but nobody instructed you
8 that you should set up a meeting with Mr.
9 Maietta, is that correct?

10 MR. HARMAN: Objection for the
11 fourth time. It was asked and
12 answered.

13 A. No.

14 Q. What did you discuss with Mr.
15 Maietta at that meeting?

16 A. The issues that I had and gave
17 him a chance to bring out any issues he
18 had.

19 Q. Did he have any complaints
20 about you?

21 A. He didn't like the way that I
22 employed some staff while he was on
23 vacation. He didn't like that when my
24 staff told me things in confidence that I
25 didn't share with him. That's actually all

1 ASHDOWN

2 I can remember.

3 Q. With respect to his complaint
4 that he did not like that you employed
5 staff while he was on vacation, what did
6 you understand that to mean?

7 A. He wants to be part of the
8 interview process, but I also had Lawrence
9 Sanders present with me to have my second
10 opinion on who to employ.

11 Q. Had you not been including Mr.
12 Maietta?

13 A. When he was there, he was
14 present on every single interview.

15 Q. Did you, in fact, hire people
16 when he was not there?

17 A. When he was on his honeymoon,
18 yeah, we needed staff.

19 Q. At any other time did you hire
20 any personal trainers --

21 A. Not that I recall.

22 Q. (Continuing) when he was not
23 present for the interview?

24 A. Not that I can recall.

25 Q. With respect to his not liking

1 ASHDOWN

2 that you did not share confidences, what
3 was that referring to?

4 A. I had a couple of trainers
5 confide in me about a few things.

6 Q. Who were they and what did they
7 confide to you about?

8 A. They were people that had
9 personal issues.

10 Q. What types of personal issues?

11 A. Drinking issues.

12 Q. Who were the trainers?

13 A. Andrew Speer, S-P-E-E-R, Bobbie
14 Dwyer, Cornelia Hobbie, C-O-R-N-E-L-I-A
15 H-O-B-B-I-E.

16 Q. Was Ms. Hobbie a trainer?

17 A. She was my manager in training.

18 Q. What was her exact title? Do
19 you recall?

20 A. Well, she was a personal
21 trainer first and then she was a manager in
22 training and then she went into a fitness
23 manager.

24 MR. HARMAN: What was her first
25 name again?

1 ASHDOWN

2 THE WITNESS: Cornelia, but
3 everybody called her Corkie.

4 MR. HARMAN: I see.

5 Q. During your meeting with Mr.
6 Maietta, did you ever tell him that you
7 thought he did not like having a woman for
8 a supervisor?

9 A. I can't remember if that was
10 discussed.

11 Q. Did you ever tell him that on
12 any other occasion?

13 A. I can't recall.

14 Q. Was that meeting productive?

15 A. I thought it was. I hoped it
16 was.

17 Q. Did Ms. Minton request that you
18 report back the results of the meeting to
19 her in writing?

20 A. She did. We both reported back
21 to her.

22 MR. McPARTLAND: Mark that as
23 the next exhibit.

24 (Whereupon, the aforementioned
25 document was marked as Defendant's

1 ASHDOWN

2 Exhibit H for identification, as of
3 this date, by the court reporter.)

4 Q. I'm going to show you a
5 two-page E-mail chain that has been marked
6 as Defendant's Exhibit H. It's got Bates
7 stamp numbers EQX-3150 and EQX-3511 and I'm
8 going to ask you to take a look at that
9 document (indicating).

10 A. Thank you, okay.

11 Q. Do you recognize this document?

12 A. I do. It's my feedback to Liz
13 Minton.

14 Q. You're referring to the E-mail
15 from you to Liz Minton in the middle of the
16 first page on Saturday, July 30, 2011?

17 A. Yep.

18 Q. This your feedback to Ms.
19 Minton about your meeting with Mr. Maietta,
20 correct?

21 A. It is.

22 Q. Does this encompass everything
23 that you discussed with Mr. Maietta at the
24 meeting?

25 A. Reading this now, no, I thought

1 ASHDOWN

2 we discussed more.

3 Q. What do you think is not
4 included in here?

5 A. I think we discussed some of
6 the comments that he made to Lawrence, but
7 I don't seem to read it here.

8 Q. Which comments were those?

9 A. He told Lawrence that he
10 thought I would crash and burn in his
11 absence.

12 Q. What was your discussion with
13 Mr. Maietta about that?

14 A. He couldn't believe Lawrence
15 had told me that.

16 Q. Anything else?

17 A. That's all that I can remember.
18 I also think we discussed him bringing up
19 my programming, but again that's not on
20 here either.

21 Q. Do you feel that you were
22 responsible for any of the communication
23 issues between you and Mr. Maietta?

24 A. I tried my very best to
25 communicate to him in many ways.

1 ASHDOWN

2 Q. In your opinion, was there
3 anything that you were doing wrong on your
4 part in your role as the personal training
5 manager with respect to your relationship
6 with Mr. Maietta?

7 MR. HARMAN: Objection.

8 You may answer.

9 A. No.

10 THE WITNESS: Off the record.

11 (Whereupon, the discussion was
12 held off the record.)

13 MR. McPARTLAND: Mark this as
14 the next exhibit.

15 (Whereupon, the aforementioned
16 document was marked as Defendant's
17 Exhibit I for identification, as of
18 this date, by the court reporter.)

19 MR. McPARTLAND: We've been
20 provided with a copy of an E-mail
21 from Ms. Ashdown that's Bates stamp
22 P037 through P042 that's been marked
23 as Defendant's Exhibit I.

24 Q. Ms. Ashdown, I'm going to give
25 it to you and ask you to take a look at

1 ASHDOWN

2 that (indicating).

3 A. Yep.

4 Q. Do you recognize this document?

5 A. It's my resume.

6 Q. Does this accurately reflect
7 your employment history?

8 A. Yes.

9 MR. HARMAN: Can I have a copy
10 of it?

11 MR. McPARTLAND: I think we
12 only have two copies here. I only
13 have a couple of questions with
14 respect to that.

15 Q. With respect to your employment
16 prior to Equinox, can you just briefly
17 identify where you provided personal
18 training sessions to clients, at which
19 employers?

20 A. It would have been very
21 occasionally Virgin Active.

22 Q. When you say "very
23 occasionally" --

24 A. Actually it would be here or
25 there. If a member of the staff hadn't

1 ASHDOWN

2 returned back, then I would then fill in at
3 the session, or if there was an issue with
4 the training or if there was an unhappy
5 member, that as compensation I would
6 provide free training for them.

7 Q. That was just as your role as
8 the fitness manager, correct?

9 A. That was something that I chose
10 to do. It wasn't part of my role, but if
11 there was an unhappy member, that was my
12 way of compensation.

13 Q. Yes, but you did that while you
14 were the fitness manager?

15 A. As the fitness manager, it was
16 nothing I earned anything from. It was
17 something I did if a member of my staff
18 called in sick and the client was there. I
19 would fill in.

20 Q. Where else did you provide
21 personal training?

22 A. LA Fitness I was a trainer,
23 Holmes Place Epsom, LA Fitness, Corals and
24 obviously Equinox.

25 MR. McPARTLAND: Mark that.

1 ASHDOWN

2 (Whereupon, the aforementioned
3 document was marked as Defendant's
4 Exhibit J for identification, as of
5 this date, by the court reporter.)

6 Q. Do you know if Mr. Maietta ever
7 wrote back to Ms. Minton?

8 A. I believe he did.

9 Q. I am going to hand you a
10 document that's been marked as Defendant's
11 Exhibit J. It's got Bates stamp number
12 EQX-3508 and it's an E-mail chain,
13 including an E-mail from Mauro Maietta to
14 Elizabeth Minton on July 31, 2011
15 (indicating).

16 A. Okay, thank you, okay.

17 Q. Just referring to the E-mail,
18 Mr. Maietta states that you and he had a
19 very productive meeting. Would you agree
20 with that characterization?

21 MR. HARMAN: Hold on.

22 Objection.

23 You can answer.

24 A. Yes.

25 Q. In what ways was it productive?

1 ASHDOWN

2 A. We agreed to move forward and
3 work together.

4 Q. Did Mr. Maietta make any
5 agreements during your conversation about
6 your complaint that he was overly
7 competitive?

8 A. He did. He realized that the
9 team did not like it and it wasn't working
10 out.

11 Q. So he had previously engaged in
12 these types of competitive drills or games
13 or however you want to characterize them
14 with prior staff at other clubs?

15 A. Yes.

16 Q. Did he discontinue that after
17 this meeting?

18 A. I think he did, yeah.

19 Q. He refers to an agreement in
20 the third paragraph that he would be seen
21 as a partner in the process. Did you have
22 any discussions regarding that?

23 A. I don't remember discussing
24 that, but I never saw him as a trainer. He
25 just completes administration duties.

1 ASHDOWN

2 Q. What was that?

3 A. I never saw him as a trainer.

4 He just completes administration duties.

5 Q. Then in the same paragraph he
6 said that he explained his frustration with
7 the inability for you and he to swap days
8 when life situations calls for a switch.
9 Do you recall any conversations regarding
10 that topic?

11 A. I do remember him asking to
12 switch days on occasion.

13 Q. Him asking you to switch days?

14 A. Yeah.

15 Q. Was this a point of contention
16 with you and he at all?

17 A. It was never a point of
18 contention. He wanted us to work a full
19 weekend, which was my point of contention.

20 Q. I'm sorry?

21 A. He wanted me to work a whole
22 weekend and then have a whole weekend off
23 and then he would work three days and then
24 I would continue two.

25 Q. Did he ever send you any

1 ASHDOWN

2 E-mails requesting that you do that?

3 A. I don't remember if it was all
4 the problem concerned. I believe it was an
5 agreement that he had with the previous
6 manager of his previous club.

7 Q. He says on the fifth paragraph,
8 "As for respectful disagreements, there
9 were zero major cases." Do you agree with
10 that?

11 A. I don't recall to be honest.

12 Q. He also refers to contrasting
13 management styles. Would you agree that
14 you had contrasting management styles?

15 A. I do.

16 Q. What was your management style
17 versus his management style?

18 A. I'm more of a people manager.
19 I like to nurture and encourage and grow
20 people's strengths and weaknesses. He
21 likes to go on it on more power and
22 authority and writing people up. I do
23 things around trying to teach them how to
24 do things.

25 Q. Following you and Mr. Maietta

1 ASHDOWN

2 sending these E-mails back to Liz Minton,
3 did you have any further discussions with
4 Liz Minton with respect to this feedback?

5 A. Not that I recall now.

6 Q. Did you have any other
7 discussions with Liz Minton up until the
8 end of your employment about any issues
9 with Mr. Maietta?

10 A. Not that I recall.

11 Q. How about did you have any
12 discussions with Mr. Sanders following your
13 meeting with Mr. Maietta?

14 A. I do believe we sat down and
15 discussed it, yes.

16 Q. What did you discuss during
17 that meeting? What did you tell him and
18 what did he say to you?

19 A. It's pretty much what I wrote
20 to Liz to be honest.

21 Q. After that discussion with Mr.
22 Sanders, did you have any other further
23 discussions before the end of your
24 employment with Mr. Sanders about any
25 issues with Mr. Maietta?

1 ASHDOWN

2 A. Not that I recall.

3 Q. Did your relationship with Mr.
4 Maietta improve, stay the same, decline or
5 something different in your own words after
6 this meeting?

7 MR. HARMAN: Hold it.

8 Objection.

9 You can answer.

10 A. Possibly -- I can't recall. I
11 don't know.

12 MR. HARMAN: Do you understand
13 the question?

14 A. Yeah, can you repeat the
15 question?

16 Q. I'll rephrase it, sure.

17 A. Thank you.

18 Q. After your meeting with Mr.
19 Maietta, did your relationship with him
20 improve, worsen, stay the same or something
21 else?

22 A. We both made an effort.

23 Q. Did you ever report any issues
24 with respect to Mr. Maietta or any other
25 employee to human resources?

1 ASHDOWN

2 A. No, just to Liz and to
3 Lawrence.

4 Q. Did you ever call the 1-800
5 ethics hotline that Equinox maintains for
6 its employees?

7 A. No.

8 Q. You were re-diagnosed with
9 cancer at some point during the course of
10 your employment, correct?

11 A. I was.

12 Q. When was that?

13 A. I can't recall the exact date,
14 but it was around April or May, 2011.

15 Q. Who made the diagnosis?

16 A. Actually it was Dr. Griffin.

17 Q. How did Dr. Griffin make the
18 diagnosis?

19 A. Because he came to New York to
20 see me.

21 Q. Where did you meet with him?

22 A. At Sloan-Kettering.

23 Q. Why was this appointment
24 scheduled?

25 A. Because I had to have regular

1 ASHDOWN

2 checkups.

3 Q. How frequently were you having
4 regular checkups at that point?

5 A. At that point every three
6 months.

7 Q. Did Dr. Griffin make any other
8 trips in New York?

9 A. He did while I was in
10 treatment. He oversaw all of my treatment.
11 In fact, he prescribed it.

12 Q. Is Dr. Griffin associated with
13 Sloan-Kettering in any way?

14 A. No, but he made it possible and
15 arranged it to be able to treat me. He's
16 been my doctor for nine years.

17 Q. Did you treat with any other
18 doctors at Sloan-Kettering?

19 A. It was all under his
20 prescription. I had people give me the
21 medications, but I don't know any doctors'
22 names, no.

23 Q. Were you feeling ill at all
24 prior to the diagnosis?

25 A. No.

1 ASHDOWN

2 Q. What was the diagnosis?

3 A. That it returned, that it was
4 active after a PET scan.

5 Q. Were you prescribed a course of
6 treatment?

7 A. I had nine weeks of radiation
8 and three cycles of chemotherapy.

9 Q. With respect to the nine weeks
10 of radiation, when did that occur?

11 A. It's every single day Monday
12 through Friday, Saturday and Sunday off.

13 Q. In terms of your employment,
14 which months did that cover?

15 A. I'd have to get back to you the
16 exact dates.

17 Q. With respect to the
18 chemotherapy, what was the schedule of
19 treatment for that?

20 A. Day one was intravenous and
21 then fourteen days of tablet form followed
22 by seven days off, a twenty-one-day cycle.

23 Q. Was that before or after the
24 radiation treatment?

25 A. After.

1 ASHDOWN

2 Q. Were the radiation treatment
3 and the chemotherapy administered at
4 Sloan-Kettering?

5 A. They were.

6 Q. Did you treat at any other
7 locations at any point?

8 A. No.

9 Q. Other than the radiation and
10 then the chemotherapy, did you have any
11 other treatment?

12 A. No.

13 Q. Was there a diagnosis at some
14 point that your cancer had gone back into
15 remission following this?

16 A. Yes.

17 Q. How soon after you completed
18 the chemotherapy were you given that
19 diagnosis?

20 A. I can't be exactly sure.

21 Q. Prior to this diagnosis during
22 the course of your employment with Equinox,
23 had you told anybody at Equinox about your
24 history with cancer?

25 A. I can't recall that, no.

1 ASHDOWN

2 Q. After the diagnosis, did you
3 tell anybody?

4 A. I did. I told Lawrence Sanders
5 and Mauro Maietta.

6 Q. Did you tell them each
7 individually?

8 A. Yes.

9 Q. Did you tell them in person or
10 via E-mail or something else?

11 A. In person.

12 Q. What did you say to them and
13 what did they say to you?

14 A. I explained the situation.

15 Q. What did Mr. Sanders say in
16 response?

17 A. I don't actually recall.

18 Q. What did Mr. Maietta say in
19 response?

20 A. I don't recall that either.

21 Q. Did you ask Mr. Sanders to keep
22 the diagnosis confidential?

23 A. No.

24 Q. Did you ask Mr. Maietta to keep
25 the diagnosis confidential?

1 ASHDOWN

2 A. I didn't want my staff to know.

3 Q. Did you ask him to keep it
4 confidential or did you tell him that he
5 could tell people or you didn't say?

6 A. I told him not to tell the
7 team.

8 Q. With respect to Mr. Sanders,
9 what did you ask him? Who did you ask him
10 not to tell, if anyone?

11 A. I didn't ask him to not tell
12 anybody. I just told him what my wishes
13 were.

14 Q. Are you familiar with Mr.
15 Maietta's family history with cancer?

16 A. I think he had a dad who had
17 cancer.

18 Q. Did you have discussions with
19 him about that?

20 A. Very briefly.

21 Q. Did you have to miss any work
22 for any treatment or because you weren't
23 feeling well?

24 A. I only recall taking a couple
25 of days off. I remember switching a day,

1 ASHDOWN

2 but I still worked.

3 Q. So other than those couple of
4 days off and switching a day, did you ever
5 have to alter your schedule in any way?

6 A. No.

7 Q. Did the treatment affect your
8 ability to perform your job duties?

9 A. I was tired.

10 Q. Were you able to fully perform
11 your job duties?

12 A. I was, but it was hard.

13 Q. Did you ever request any type
14 of accommodation for your treatment other
15 than just to have the schedule changed one
16 day and being ill a couple of days?

17 A. I tried not to let it affect my
18 job.

19 Q. Were you successful with that?

20 A. I believe I was.

21 Q. Was your appearance affected at
22 all by the treatment?

23 A. It was. I looked pale, I had
24 sores on my arms and after chemotherapy I
25 had my arms strapped up and my gums would

1 ASHDOWN

2 bleed from time to time.

3 Q. Do you know was this observable
4 by other people?

5 MR. HARMAN: Objection.

6 A. Yeah.

7 Q. Did anybody ever make any
8 mention of your appearance?

9 A. They mentioned the sores on my
10 arms.

11 Q. Who did?

12 A. Some of my staff.

13 Q. Did Mr. Maietta ever make any
14 mention about your appearance?

15 A. Not that I can recall.

16 Q. Did Mr. Sanders ever make any
17 mention of your appearance?

18 A. Not that I recall, but he did
19 mention how tired I looked from time to
20 time and he actually I do recall him buying
21 some cream for my sores because he noticed
22 it (indicating).

23 Q. Who did that?

24 A. Lawrence.

25 Q. Were you permitted to drink

1 ASHDOWN

2 alcoholic beverages during your treatment?

3 A. No.

4 Q. Did you ever drink any
5 alcoholic beverages during your treatment?

6 A. No.

7 MR. McPARTLAND: Mark that as
8 the next exhibit.

9 (Whereupon, the aforementioned
10 document was marked as Defendant's
11 Exhibit K for identification, as of
12 this date, by the court reporter.)

13 Q. Ms. Ashdown, I'm going to show
14 you a three-page E-mail chain that's been
15 marked as Defendant's Exhibit K. It has
16 Bates stamp numbers EQX-5765 through
17 EQX-5767. Tell me when you've had a chance
18 to read those E-mails (indicating).

19 A. Yeah.

20 Q. Do you recognize this document?

21 A. I guess it's an E-mail from me.

22 Q. I'm sorry?

23 A. It's an E-mail from me.

24 Q. Do you recall this E-mail
25 correspondence with Mr. Sanders?

1 ASHDOWN

2 A. I don't recall it, but
3 obviously I sent it.

4 Q. What's the date of your E-mail
5 to Mr. Sanders?

6 A. July 6.

7 Q. Were you in treatment at that
8 point?

9 A. Well, obviously I had a two-
10 week break.

11 Q. Okay, so when you in that
12 statement when you say, "So boss, now I can
13 drink for two weeks when we going for a
14 beer?" what are you referring to?

15 A. Meaning that I'm allowed to
16 have a drink for two weeks.

17 Q. So there would have been a
18 two-week break in your treatment at this
19 point?

20 A. Yes, I remember there was a
21 break between radiation and chemotherapy.

22 Q. Did you ever socialize with the
23 staff outside of the club?

24 A. Yes, very occasionally for a
25 staff member's birthday.

1 ASHDOWN

2 Q. On which occasions did you
3 socialize outside the club?

4 A. I only remember going out on a
5 couple of occasions for staff birthdays, we
6 went to team building, to bowling and there
7 was actually just before I got terminated
8 there was an event that we had down by
9 South Street Seaport, which Lawrence
10 Sanders was also at, which I attended, but
11 I didn't drink when I got there.

12 Q. Did you attend the bowling
13 event at Bowlmor?

14 A. Yes, I did.

15 Q. Were you intoxicated at that
16 event?

17 A. I don't recall being
18 intoxicated.

19 Q. Were you intoxicated at any of
20 the events?

21 A. I had drunk at one of the
22 birthday occasions, yeah.

23 Q. You were intoxicated on that
24 occasion?

25 A. I had a few drinks.

1 ASHDOWN

2 Q. Were you intoxicated?

3 A. I don't recall being
4 intoxicated.

5 Q. Do you recall being intoxicated
6 on any occasions with staff around?

7 A. Not with my staff, no.

8 Q. Did you ever go with Mr.
9 Sanders for a beer?

10 A. We went out for lunch a couple
11 of times.

12 Q. Did you have any alcoholic
13 beverages during those luncheons?

14 A. I believe we had a drink but
15 not on that occasion. It was beforehand.

16 Q. I may have asked you this
17 already.

18 A. Sure.

19 Q. There was some point that your
20 cancer went back into remission, correct?

21 A. Yes.

22 Q. When was that?

23 A. I believe it was around
24 October, but I don't have the exact date
25 with me, the end of October.

1 ASHDOWN

2 Q. That would be 2012 or 2011?

3 A. Yeah.

4 Q. 2011?

5 A. Mmhmmm, yes.

6 Q. When was the last time that you
7 were treated?

8 A. I was treated six months prior
9 to that diagnosis.

10 Q. Did you ever hear Mr. Sanders
11 say anything negative about your treatment
12 or your cancer?

13 A. No.

14 Q. Did anyone ever tell you that
15 Mr. Sanders said anything negative about
16 your treatment or your cancer?

17 A. He when I told him that I
18 needed to have a day off to go to the
19 hospital, he wasn't very happy about it.

20 Q. When was that?

21 A. Towards the end of my
22 appointment.

23 Q. What was the purpose of the
24 hospital visit?

25 A. I couldn't breathe. I was

1 ASHDOWN

2 working and I couldn't breathe.

3 Q. What did he say to you when you
4 told him?

5 A. He told me to go but wasn't
6 happy about it.

7 Q. Well, what's your basis for the
8 statement that he wasn't happy? What did
9 he say or do that made you believe that?

10 A. It was the tone of his voice.
11 It was his kind of being frustrated that I
12 had to go.

13 Q. Anything else that he said or
14 did?

15 A. No.

16 Q. Did you ever hear Mr. Maietta
17 say anything negative about your cancer or
18 your treatment?

19 A. No.

20 Q. Did anyone ever tell you that
21 Mr. Maietta said anything negative about
22 your cancer or your treatment?

23 A. No.

24 Q. Did you ever hear Liz Minton
25 say anything negative about your cancer or

1 ASHDOWN

2 your treatment?

3 A. No.

4 Q. How about David Harris?

5 A. I had very little contact with
6 David Harris, no.

7 Q. How about Joe Matarazzo?

8 A. No.

9 Q. How about Matthew Plotkin?

10 A. No.

11 Q. Now you've alleged in this
12 lawsuit that Equinox unlawfully terminated
13 you because of your cancer treatment, so
14 what is the factual basis for this belief?

15 A. Because I didn't do what they
16 accused me of doing and I believe they
17 didn't want someone who looks sick in a
18 health club.

19 Q. Well, what's the basis for your
20 belief that they didn't want someone who
21 was sick in the health club?

22 A. Because I did nothing else
23 wrong and that was the only changing factor
24 on how I was.

25 Q. Anything else that forms the

1 ASHDOWN

2 basis of your belief that Equinox
3 unlawfully terminated you because of your
4 cancer treatment other than what you said?

5 A. Only from Lawrence Sanders'
6 reaction when I had to take time off to go
7 to the hospital.

8 Q. Did you ever report any
9 complaints of disability discrimination to
10 anyone at Equinox?

11 A. No.

12 Q. Did you ever report it to human
13 resources?

14 A. No.

15 Q. Did you ever call the ethics
16 hotline?

17 A. No.

18 MR. McPARTLAND: I'm at a good
19 breaking point if you guys want to
20 break for lunch now.

21 MR. HARMAN: Sure.

22 (Whereupon, at 12:20 P.M., the
23 parties broke for a lunch break until
24 1:05 P.M.)

25 BY MR. McPARTLAND:

1 ASHDOWN

2 Q. What does pulling a personal
3 training session mean?

4 A. It means when a client has had
5 a session and then you pull it from the
6 actual system to get paid for it.

7 Q. Well, can you take me through
8 what the actual process is?

9 A. Well, it's either one of two
10 ways. The client will go to the front desk
11 and enter the club and they say that they
12 have a session there with the trainer and
13 they sign at the front desk, and
14 alternatively if they forget to pull the
15 session or there's a late cancellation,
16 then we, me and Mauro or Lawrence, could
17 pull it for them.

18 Q. Is it entered into a computer
19 system?

20 A. It is entered into a computer
21 system.

22 Q. What is the name of that
23 system?

24 A. I could not even begin to
25 remember that.

1 ASHDOWN

2 Q. How would you enter into the
3 system?

4 A. You would go into whatever
5 system that was called that I can't
6 remember. You look up the person's name.
7 You, if I remember correctly, you click on
8 the training sessions and it says "used".

9 Q. Okay, but did you need to log
10 into that system?

11 A. You would have to be logged
12 into a computer and you would have to log
13 in an ID number.

14 Q. Did you have to be logged in at
15 the club?

16 A. Yes.

17 Q. Okay, so you couldn't log in
18 remotely and perform this transaction?

19 A. No.

20 Q. Is that correct?

21 A. Yes.

22 Q. Did you have certain codes or
23 passwords to log in?

24 A. Everybody had their own
25 personal code.

1 ASHDOWN

2 Q. Was that called a cashier's
3 code?

4 A. I believe so, yeah.

5 Q. Who had a cashier's code at the
6 SoHo branch?

7 A. Every single person.

8 Q. The personal trainers had a
9 cashier's code?

10 A. Every person had a personal
11 code, but I don't know whether everyone
12 could pull a session by using that code.

13 Q. When you would log in, would
14 you enter in an actual user name and
15 password?

16 A. To log into the computer?

17 Q. To log into the system,
18 correct.

19 A. I believe so, yeah.

20 Q. Then would you also enter a
21 separate cashier's code?

22 A. Yes.

23 Q. Actually perform the
24 transaction?

25 A. Yes, yes, well, the code is the

1 ASHDOWN

2 same as the password that you would use to
3 log in.

4 Q. Did you ever share your
5 cashier's code with any other employee at
6 the SoHo branch?

7 A. I did with one of the managers
8 in training.

9 Q. Who was that?

10 A. I think it was Rebecca Ward
11 (spelled phonetically) and I think I -- I'm
12 not sure whether I gave it to Cornelia. I
13 can't remember.

14 Q. Who is Cornelia Hobbie?

15 A. She was one of my personal
16 trainers and was my manager in training.

17 Q. Did you directly supervise her?

18 A. I did.

19 Q. Did she have a cashier's code?

20 A. She did.

21 Q. Did you have access to her
22 cashier's code?

23 A. No.

24 Q. How did she get her cashier's
25 code?

1 ASHDOWN

2 A. It was given to her when she
3 joined. It was her normal log in ID code.

4 Q. Were these cashier codes
5 supposed to be kept confidential?

6 A. Yes.

7 Q. You explained the process a
8 little bit for me before, so when a
9 personal training session is performed, the
10 client will go to the front desk and
11 request a voucher, is that right?

12 A. That's one of the ways, but a
13 lot of them didn't do that. I tried to
14 instill every single client to do that, but
15 it still didn't happen.

16 Q. Okay, so let's talk about the
17 scenario when they actually did that.

18 A. Yeah.

19 Q. They would pull the voucher?

20 A. They would.

21 Q. Then would they do?

22 A. The front desk would give them
23 the voucher and they would then hand that
24 to the trainer.

25 Q. Then what would the trainer do

1 ASHDOWN

2 with the voucher?

3 A. They'd probably just throw it
4 out after it had been written up.

5 Q. How did that voucher for the
6 session get inputted into the system so
7 that the trainer could receive his
8 commission?

9 A. Now that's the thing. If they
10 do it at the front desk, it's already been
11 done.

12 Q. Okay, so when the trainer would
13 come, the front desk associate would enter
14 the --

15 A. Would pull the session for
16 them.

17 Q. They would pull the session for
18 them --

19 A. Yes.

20 Q. (Continuing) and also make
21 whatever transaction?

22 A. No, once they pull the session,
23 that is going onto payroll.

24 Q. Okay, so then you described as
25 a scenario where the member would not go

1 ASHDOWN

2 and pull the session. What would happen in
3 those circumstances?

4 A. So the trainer would come and
5 tell me and we would pull the session for
6 them.

7 Q. When you say "we", who would be
8 that?

9 A. Me, Mauro, Lawrence.

10 Q. Did the personal training
11 sessions expire after a certain period of
12 time?

13 A. Yes, they did.

14 Q. Those sessions, could they be
15 reinstated?

16 A. Yes, they could.

17 Q. How would they be reinstated?

18 A. Exactly the same way that you
19 would pull them.

20 Q. Who would be responsible for
21 reinstating sessions at the club?

22 A. Me, Mauro and Lawrence.

23 Q. What is E tracking?

24 A. I can't remember what that is.

25 Q. Was a review done of the

1 ASHDOWN

2 personal trainer productivity reports to
3 ensure that the trainers were being
4 properly paid for their sessions?

5 MR. HARMAN: Objection.

6 A. Yes.

7 Q. Who performed that review?

8 A. You used to print the report
9 out and then you used to put it in their
10 pigeon hole.

11 Q. Would you or Mr. Maietta review
12 those?

13 A. No, you put it in their pigeon
14 hole and they would come back to us if
15 there was a problem.

16 Q. What were AmEx sessions?

17 A. I believe it's what they got
18 when somebody joined and paid with AmEx.

19 Q. What type of special benefits
20 did that confer, if any?

21 A. The only one I know is that
22 they received four personal training
23 sessions a year.

24 Q. Did AmEx sessions expire as
25 well?

1 ASHDOWN

2 A. I believe they did.

3 Q. Was any review done of the
4 trainer productivity reports to ensure that
5 AmEx personal training sessions were
6 actually used by the members?

7 MR. HARMAN: Objection.

8 A. No.

9 Q. At some point in August did Mr.
10 Sanders approach you about certain expired
11 sessions that were pulled for personal
12 trainers?

13 A. He did.

14 Q. What did he tell you?

15 A. He asked me if I knew who a
16 member was.

17 Q. Who was the member?

18 A. I can't remember.

19 Q. Did Mr. Sanders give you any
20 type of documentation at that time?

21 A. No, he showed me on a computer.

22 Q. What did you understand the
23 issue to be?

24 A. Sessions had been pulled that
25 shouldn't have been pulled.

1 ASHDOWN

2 Q. Did he ask you to investigate
3 the issue?

4 A. No.

5 Q. What did you say when he told
6 you about the problem?

7 A. He told me that he was going to
8 investigate it. He asked me if I had done
9 it.

10 Q. If you had done the
11 investigation?

12 A. No, if I had pulled the
13 sessions or knew anything about it.

14 Q. What did you say to him?

15 A. No.

16 Q. Was it a serious offense for an
17 employee to record personal training
18 sessions that wasn't actually performed?

19 A. Yes.

20 Q. Did the employee receive a
21 financial benefit from pulling a session
22 that never actually occurred?

23 A. Yeah.

24 MR. HARMAN: Objection.

25 Employer or employee?

1 ASHDOWN

2 MR. McPARTLAND: The employee,
3 I'm sorry, yes, thank you.

4 A. Yeah.

5 Q. How about from a bonus
6 perspective? Would that affect the
7 trainer's bonus?

8 A. They had to hit a certain
9 number of hours to achieve a bonus.

10 Q. Okay, so that pulled session
11 that wasn't actually performed would be
12 added towards those hours, is that correct?

13 A. Well, I guess that depends on
14 what we're talking about.

15 Q. Well, if a session was pulled
16 for a personal trainer that they never
17 actually performed and that wasn't
18 discovered, that session would count
19 towards their bonus requirement?

20 A. Yes, it would.

21 Q. Does it also increase the
22 club's revenues for personal training
23 sessions --

24 A. No.

25 Q. (Continuing) when a session is

1 ASHDOWN

2 pulled?

3 A. No, I don't believe it does.

4 Q. Would you say illegally pulling
5 sessions is an issue that would warrant the
6 termination of an employee's employment?

7 MR. HARMAN: Objection.

8 A. Yeah.

9 Q. How many discussions did you
10 have with Mr. Sanders regarding this issue?

11 A. A couple I can remember.

12 Q. Over what time period did those
13 discussions occur?

14 A. I don't know, a week or two.

15 Q. What did you say to him and
16 what did he say to you, if anything, during
17 these discussions?

18 A. The first discussion was he
19 made me aware of what happened and told me
20 he was going to investigate it. The second
21 discussion he said, "If you'd done it, just
22 admit it and we'll say no more about it."

23 Q. What did you say during those
24 conversations?

25 A. "I'm not going to admit to

1 ASHDOWN

2 something that I've not done."

3 Q. Did you ever get angry with Mr.
4 Sanders?

5 A. No, not that I can recall.

6 Q. Did you ever have any
7 discussions with Matt Plotkin about the
8 pulled sessions?

9 A. Yes.

10 Q. How many discussions did you
11 have?

12 A. Two from what I can recall.

13 Q. When did those discussions
14 occur?

15 A. I can't remember the exact
16 dates.

17 Q. Did you meet with him in person
18 or did you talk to him by telephone?

19 A. No, in person.

20 Q. Was that at the club?

21 A. Mmhmmm, yes.

22 Q. What did he say to you and what
23 did you say to him during these
24 discussions?

25 A. He asked me about the same

1 ASHDOWN

2 thing, if I knew what was going on.

3 Q. What was your response?

4 A. I don't know. I didn't know
5 anything about it.

6 Q. Did Mr. Plotkin or Mr. Sanders
7 ever show you any documents?

8 A. Not at that time, no.

9 Q. At some point they did?

10 A. Actually I don't recall them
11 showing me any documents.

12 Q. Did you have any discussions
13 with Liz Minton regarding pulled sessions?

14 A. I don't recall speaking to her
15 about it.

16 Q. Did you have any discussions
17 with David Harris about it?

18 A. I don't recall speaking to him
19 about it.

20 Q. How about Joe Matarazzo?

21 A. No, I don't recall speaking to
22 him about it either.

23 Q. Did you try to provide any
24 explanation as to who may have pulled the
25 sessions?

1 ASHDOWN

2 A. No, because, well, I thought in
3 the end it was Mauro.

4 Q. Did you ever communicate that
5 to anybody?

6 A. To Lawrence Sanders and Matt
7 Plotkin.

8 Q. What was the basis for your
9 belief that Mr. Maietta had pulled the
10 sessions?

11 A. Because of all the previous
12 activities and false allegations that had
13 come from Mauro.

14 Q. Did you have any other basis
15 besides that?

16 A. Lawrence told me that Mauro
17 brought it to his attention.

18 MR. McPARTLAND: Off the
19 record.

20 (Whereupon, the discussion was
21 held off the record.)

22 MR. McPARTLAND: Let me have
23 that marked, please.

24 (Whereupon, the aforementioned
25 document was marked as Defendant's

1 ASHDOWN

2 Exhibit L for identification, as of
3 this date, by the court reporter.)

4 Q. Did you ever perform any
5 investigation of your own into the pulled
6 sessions?

7 A. I was told that I could
8 investigate and then they told me I was
9 terminated.

10 Q. Who told you that you could
11 investigate?

12 A. Mat Plotkin and Lawrence
13 Sanders.

14 Q. When did they communicate that
15 to you?

16 A. I can't remember a date.

17 Q. How soon was it prior to the
18 termination of your employment?

19 A. Pretty quick.

20 Q. Was it within a week or was it
21 two weeks?

22 A. Less than a week.

23 Q. Did you actually perform any
24 investigation?

25 A. I was off the following day and

1 ASHDOWN

2 then a couple of days later I was gone. I
3 was also a couple of days sick.

4 Q. Did you not perform any
5 investigation?

6 A. I started looking into the
7 sessions and investigated.

8 Q. What did you investigate?

9 A. I looked into the sessions that
10 had been pulled for and the dates and times
11 they'd been pulled. I didn't really get
12 too much further than that. I think I sent
13 an E-mail to IT asking or requesting
14 information, but I can't recall for sure.

15 Q. So what exactly did you look at
16 to determine this information?

17 A. I can't remember exactly what I
18 did.

19 Q. Did you reach any conclusions
20 based upon your investigation?

21 A. No, like I said, I also had
22 taken off a couple of days sick, and when I
23 came in, I was being terminated.

24 Q. I'm going to show you a
25 four-page document that's been marked as

1 ASHDOWN

2 Defendant's Exhibit L (indicating).

3 A. Okay.

4 Q. It's Bates stamp numbers EQX-
5 6474 through EQX 6477. Now there were
6 previous redactions on this document and
7 the unredacted copy of this document has
8 been marked as "confidential, attorney's
9 eyes only". For purposes of this document,
10 we're removing that designation.

11 A. Okay.

12 Q. Do you recognize this document?

13 A. I do.

14 Q. What is it?

15 A. It's a Performance Commission.

16 Q. Is it for a certain time
17 period?

18 A. From the 1st of July until the
19 31st of August.

20 Q. Does it refer to a certain
21 employee?

22 A. Yes, to me.

23 Q. Referring to the first page of
24 that document, there's a member name there,
25 Daniel Lyons.

1 ASHDOWN

2 A. Yes.

3 Q. Who is that?

4 A. I have no idea.

5 Q. Did you ever perform any
6 personal training sessions for Mr. Lyons?

7 A. No.

8 Q. Do you know if Mr. Lyons was a
9 member of the Soho club?

10 A. No.

11 Q. Do you know why there are
12 personal training sessions on your
13 Performance Commission for Mr. Lyons?

14 A. No.

15 Q. Did you receive a commission
16 for those sessions?

17 A. No, it looks like it's been
18 returned.

19 Q. Did you initially receive a
20 commission for those sessions?

21 A. No, it looks like it's been
22 returned.

23 Q. When you say "it looks like
24 it's been returned", can you refer me to
25 where you're looking at?

1 ASHDOWN

2 A. They were added on and then
3 minused off.

4 Q. Okay, so when were the sessions
5 entered initially as they were --

6 A. Yes.

7 MR. HARMAN: Hold on a second.

8 Finish the question.

9 Q. So which dates were the
10 sessions actually entered into your
11 account?

12 MR. HARMAN: Objection.

13 A. The 30th of July.

14 Q. When were they reversed out?

15 A. The 20th of August.

16 Q. Who entered them into your
17 account on the 30th of July?

18 A. I don't know.

19 Q. Who reversed them out on the
20 20th of August?

21 A. I don't know.

22 Q. Did you review your Performance
23 Commission Reports at the end of each
24 month?

25 A. Very rarely -- my bonus wasn't

1 ASHDOWN

2 affected by this.

3 Q. By the way, flipping through
4 this Performance Commission Report that's
5 been marked as Exhibit L, have you trained
6 any of these members since the date of the
7 termination of your employment with
8 Equinox?

9 A. No.

10 Q. On any of the pages?

11 A. No, I referred my clients to
12 other people.

13 Q. Who did you refer to whom?

14 A. I can't remember exactly. I
15 know Carl Johnson went to Jamie. I also
16 know Ryan Jacoby went to Jamie.

17 Q. Jamie who?

18 A. Whitney and Enrico Bonetti
19 trained with Jamie and then Dana and I'm
20 not sure about the others. I think the
21 rest were actually allocated out.

22 Q. Who is Jamie?

23 A. Jamie Whitney, she was another
24 manager in training. She was another one
25 of my personal trainers and she is now a

1 ASHDOWN

2 personal training manager at the Printing
3 House.

4 MR. BLUNETTI: You referred to
5 Dana. I'm sorry. Do you know the
6 last name?

7 THE WITNESS: Witdule
8 (phonetically spelled).

9 MR. McPARTLAND: Can I have
10 this marked?

11 (Whereupon, the aforementioned
12 document was marked as Replace
13 Exhibit M for identification, as of
14 this date, by the court reporter.)

15 Q. Ms. Ashdown, I'm going to show
16 you another document that's been marked as
17 Defendant's Exhibit M. It's a one-page
18 document with the Bates stamp number EQX-
19 6400. This document had previously been
20 produced with the designation
21 "confidential, attorney's eyes only" for a
22 certain redaction of member names. We are
23 removing that designation for purposes of
24 this document only (indicating).

25 A. Okay, thank you, okay.

1 ASHDOWN

2 Q. Do you recognize this document?

3 A. No.

4 Q. Have you ever seen it before?

5 A. No.

6 Q. Who is Jacques Levy?

7 A. I have no idea.

8 Q. Who is Brian Canida?

9 A. I have no idea.

10 Q. Again you don't know who Daniel
11 Lyons is, is that correct?

12 A. I don't know.

13 Q. Who is Robert Dwyer?

14 A. One of my trainers.

15 Q. Did you ever lend any money to
16 Mr. Dwyer?

17 A. I did.

18 Q. How much did you lend him?

19 A. \$200.00.

20 Q. For what purposes?

21 A. He didn't have any money to get
22 to work and I needed him to get to work.

23 Q. Did he pay you back?

24 A. He did.

25 Q. How did he pay you?

1 ASHDOWN

2 A. Back in cash like I gave it to
3 him.

4 Q. Did you ever lend any money to
5 any other trainers?

6 A. I think I lent money to Corkie
7 Hobbie.

8 Q. How much money did you lend to
9 Ms. Hobbie?

10 A. I think it was \$50.00.

11 Q. Did she pay you back?

12 A. She did.

13 Q. Did you ever have a social
14 relationship with Mr. Dwyer outside of the
15 club?

16 A. No, only on the birthday of
17 staff members that I told you about.

18 Q. Was your employment with
19 Equinox ultimately terminated?

20 A. (No response.)

21 Q. Was your employment with
22 Equinox ultimately terminated?

23 A. Yes.

24 Q. When did that occur?

25 A. I believe it was September 1.

1 ASHDOWN

2 Q. Who informed you of the
3 termination?

4 A. Matt Plotkin.

5 Q. How were you informed?

6 A. In person.

7 Q. Was there anybody else present?

8 A. Lawrence Sanders.

9 Q. This was at the club?

10 A. It was.

11 Q. Had you been absent from the
12 club in the days prior to that?

13 A. I was absent a couple of days
14 sick, but I couldn't tell you exactly when
15 those days were leading up to it.

16 Q. Was that related to your
17 treatment or were you ill in some other
18 way?

19 A. That's when I told you I
20 couldn't breathe and I had to go to the
21 hospital.

22 Q. Were you hospitalized at that
23 time?

24 A. I went into the hospital to the
25 doctor and then I went back to see a

1 ASHDOWN

2 doctor.

3 Q. Were you admitted to the
4 hospital?

5 A. I never stayed overnight, no.

6 Q. Where did you seek treatment?

7 A. I went to Sloan-Kettering.

8 Q. During this meeting with Matt
9 Plotkin and Lawrence sanders, what did they
10 tell you and what did you say to them?

11 A. They told me that they had been
12 pulling my computer and that they believed
13 I had done it.

14 Q. That you had done what?

15 A. Pulled the sessions.

16 Q. What did you say in response?

17 A. I didn't do it and I even was
18 willing to take a lie detector test to
19 prove it.

20 Q. Was anything else said during
21 that meeting?

22 A. Not that I can recall, oh,
23 actually they asked me who I thought had
24 done that and I said that was Mauro.

25 Q. Did you give them the basis for

1 ASHDOWN

2 your belief that it was Mr. Mauro?

3 A. It was based on everything that
4 had happened in the past.

5 Q. That's referring to your prior
6 issues with Mr. Maietta?

7 A. My prior issues of false
8 allegations and fake E-mail addresses and,
9 yeah.

10 Q. At any time during that
11 meeting, did you ever complain that you
12 were being unlawfully terminated because of
13 your cancer or your related treatment?

14 A. No.

15 Q. Did you ever say that you were
16 being unlawfully terminated because of your
17 gender?

18 A. No.

19 Q. Prior to the date of the
20 termination of your employment, did you
21 ever complain to anyone at Equinox that you
22 were being unlawfully discriminated against
23 because of your cancer or your cancer
24 treatment?

25 A. No.

1 ASHDOWN

2 Q. Did you ever say that you were
3 being unlawfully discriminated against
4 based on your gender at Equinox?

5 A. I think Mauro didn't like
6 working for a female, yeah.

7 Q. Did you ever report that to
8 anybody?

9 A. I think I mentioned it to
10 Lawrence, but I can't recall when.

11 Q. What exactly did you say to
12 him?

13 A. I can't recall my exact words.

14 Q. Following the termination of
15 your employment, did anyone speak to you
16 about remaining as a personal trainer with
17 Equinox?

18 A. Matt Plotkin offered me a job
19 as he escorted me out of the building.

20 Q. What did he say to you?

21 A. He told me to contact Lawrence
22 if I was interested in just having a
23 personal training job.

24 Q. Did you ever contact Mr.
25 Sanders?

1 ASHDOWN

2 A. No.

3 Q. What did you say, if anything,
4 in response to Mr. Plotkin's offer?

5 A. I walked out in tears.

6 Q. I'm sorry?

7 A. I walked out in tears.

8 Q. Did you say anything?

9 A. No.

10 Q. Did you speak with any of the
11 trainers at the club regarding the
12 termination of your employment?

13 A. I actually texted one of my
14 trainers to tell them that I had left.

15 Q. What did you say in that text?

16 A. I actually can't remember.

17 Q. Do you have a copy of that
18 text?

19 A. I don't believe I do.

20 Q. Did you speak with any of the
21 members at the club regarding the
22 termination of your employment?

23 A. I also let my clients know that
24 I was no longer there.

25 Q. How did you communicate with

1 ASHDOWN

2 them?

3 A. Via text.

4 Q. What exactly did you say in
5 that text?

6 A. I don't recall exactly what I
7 said.

8 Q. Do you have a copy of it?

9 A. I don't believe I do.

10 Q. Since the date of the
11 termination of your employment with
12 Equinox, have you provided personal
13 training sessions to any members or former
14 members of Equinox?

15 A. No.

16 Q. Since the date of your
17 termination of your employment, have you
18 had any communications with any other
19 former or current Equinox employees
20 regarding your claims in this action?

21 A. No.

22 Q. Have you had any conversations
23 or communications with any former or
24 current members of Equinox regarding any of
25 your claims in this lawsuit?

1 ASHDOWN

2 A. No.

3 Q. Do you meet socially with any
4 current or former Equinox employees?

5 A. Yes, I meet with Bobbie
6 Carlson, I meet with Jessica Desmond and
7 Jay Agnelo (phonetically spelled).

8 Q. When was the last time you met
9 with Mr. Agnelo?

10 A. I saw him around his birthday.

11 Q. When was that?

12 A. June.

13 Q. How many times have you seen
14 him since the termination of your
15 employment?

16 A. Very few, I would say, three.

17 Q. When was the last time you met
18 with Jessica Desmond?

19 A. Two, three months ago.

20 Q. For what purpose?

21 A. We had lunch.

22 Q. How frequently have you met
23 with Ms. Desmond since the date of the
24 termination of your employment?

25 A. Probably twice, two, three

1 ASHDOWN

2 times.

3 Q. When was the last time you met
4 with Bobbie Carlson?

5 A. Again probably two months ago.

6 Q. What was the purpose of that
7 meeting?

8 A. We had lunch.

9 Q. Was that with Ms. Desmond?

10 A. No, it wasn't. It was with
11 another friend of mine.

12 Q. How many times have you met or
13 communicated with Mr. Carlson since the
14 date of the termination of your employment?

15 A. I see him more frequently, but
16 it's probably I see him once every other
17 month.

18 Q. Other than your self-employment
19 as a personal trainer, have you ever been
20 employed anywhere since your termination of
21 your employment from Equinox?

22 A. No.

23 Q. Have you sought employment with
24 anyone?

25 A. I have.

1 ASHDOWN

2 Q. With whom?

3 A. Immediately after my
4 termination I contacted Crunch. I've also
5 applied with is it Pro Health or Plus One
6 and the gym at Credit Suisse. There are
7 others, but I can't remember the exact
8 names of people that I sent my resume off
9 to.

10 Q. Were you made any offers of
11 employment?

12 A. I was at Credit Suisse.

13 Q. You were offered employment
14 with Credit Suisse?

15 A. Yes.

16 Q. Did you accept that employment?

17 A. I did, but I sought advice from
18 my lawyer and I couldn't do that with my
19 visa. Actually can I just change that? I
20 could do that with my visa, but I had to
21 add them on to my visa and they weren't
22 willing to go down that road.

23 Q. Which visa were you --

24 A. I only have one.

25 Q. (Continuing) referring to?

1 ASHDOWN

2 A. My only one.

3 Q. So you would have to add Credit
4 Suisse?

5 A. I would have to add Credit
6 Suisse on, which means that they would have
7 to provide their tax documents and all
8 their information, and they didn't want to
9 go down that road.

10 Q. Did Crunch give you a reason
11 for not accepting your application for
12 employment?

13 A. In the interview they led me to
14 believe that I had the job. He said, "If
15 Equinox can do a visa, we can do a visa,"
16 and then they declined saying that that was
17 not possible.

18 Q. The visa was not possible?

19 A. The visa application was not
20 possible.

21 Q. When was that?

22 A. That was pretty much a few
23 weeks after, maybe two weeks, three weeks.
24 I can't be sure of the exact date.

25 Q. Just approximately is fine.

1 ASHDOWN

2 How about Credit Suisse? When
3 was that?

4 A. Credit Suisse was since I've
5 been back on my 01 visa.

6 Q. How about Plus One?

7 A. Plus One I've sent my resume
8 off to several times and not heard
9 anything. The Credit Suisse gym is
10 actually part of Plus One, but it's
11 independent.

12 Q. Did you file a 2011 tax return?

13 A. I did.

14 MR. McPARTLAND: We were
15 supposed to be provided with a copy
16 of that return. We never received it
17 yet. Do you have a copy with you?

18 MR. HARMAN: No, I don't have a
19 copy of it here.

20 MR. McPARTLAND: We also
21 requested an authorization for the
22 tax returns. We never received that
23 yet.

24 MR. HARMAN: Again there is no
25 reason to provide an authorization.

1 ASHDOWN

2 We can give you the 2011 tax return.
3 As I said, that's the only tax return
4 that was filed. I actually can't
5 tell you what the status of that is
6 right now, but I'll look into it this
7 afternoon and get it to you.

8 MR. McPARTLAND: What? The
9 status of the 2010 return?

10 MR. HARMAN: Yes.

11 MR. McPARTLAND: Yes, but you
12 agreed to provide an authorization as
13 well though.

14 MR. HARMAN: I did not agree to
15 provide an authorization.

16 MR. McPARTLAND: So during our
17 phone call you didn't agree to
18 provide an authorization for the
19 returns?

20 MR. HARMAN: Like I said,
21 there's no reason to provide an
22 authorization, a blank authorization,
23 for tax returns. The only tax return
24 that my client has filed in the
25 United States is 2011 and I agreed to

1 ASHDOWN

2 provide that return and I apologize
3 if it hasn't been provided thus far.
4 I believe that I have, but as I said,
5 I'll look into it.

6

7 Q. Did you report any income on
8 your 2011 tax return other than your income
9 from Equinox?

10 A. No.

11 Q. You have not filed a 2012 tax
12 return?

13 A. I have sent all the documents
14 off to my accountant and she informed me
15 that I did not need to file a tax return
16 because my relocation costs exceeded the
17 amount of money I earned since staying
18 here.

19 Q. What documents did you send to
20 your accountant?

21 A. All my relocation costs, the
22 visa costs, the shipping of all my stuff,
23 the flight costs, I sent all the
24 documentation to them.

25 Q. Who is your accountant?

1 ASHDOWN

2 A. Her name is Barbara Adkins.

3 Q. Where is she located?

4 A. I can't actually tell you that
5 because I don't know and I sent them to
6 her. I do have her address. I just don't
7 have it on me.

8 Q. We will leave an open space in
9 the transcript for you to provide that.

10 A. Mmhmmm, yes.

11

12 Q. Have you treated with any
13 mental health providers for any mental
14 anguish --

15 A. I have.

16 Q. (Continuing) relating to your
17 termination?

18 MR. HARMAN: Can you please let
19 him finish the question?

20 THE WITNESS: Sorry.

21 MR. HARMAN: Can you read back
22 the question?

23 (Whereupon, the record was read
24 back by the court reporter.)

25 A. I saw a therapist, what we call

1 ASHDOWN

2 a counselor in the UK.

3 Q. Who is that?

4 A. His name is Stephen Islop,
5 I-S-L-O-P.

6 Q. Where is he located?

7 A. In Brighton.

8 Q. What's the street address?

9 A. I would have to get that to
10 you.

11 Q. Do you have copies of his
12 records?

13 A. I don't have copies of his
14 records. I received a bill from him, which
15 is currently in the UK.

16 Q. The bill, a copy of the bill,
17 is in the UK?

18 A. Yes.

19 Q. When did you treat with Mr.
20 Islop?

21 A. It was in January, February.

22 Q. For how many sessions?

23 A. I believe I had ten, twelve.

24 Q. What were your complaints to
25 him during those sessions?

1 ASHDOWN

2 A. I just was miserable.

3 Q. During what time period did
4 these ten to twelve sessions occur?

5 A. January, February.

6 Q. Of which year?

7 A. 2012.

8 Q. Did you treat with any other
9 mental health professionals?

10 A. No.

11 MR. HARMAN: I just want to
12 resolve something.

13 THE WITNESS: Of course.

14 MR. HARMAN: Can we go off the
15 record?

16 (Whereupon, the discussion was
17 held off the record.)

18 MR. HARMAN: Let the record
19 reflect that the plaintiff has
20 acknowledged that she doesn't have a
21 copy of her 2011 tax return and that
22 I've advised defendant's counsel that
23 we will be providing a tax
24 authorization either today or
25 tomorrow to defendant's counsel for

1 ASHDOWN

2 the United States tax return.

3

4 Q. Can you describe in your own
5 words how the termination of your
6 employment and the alleged discrimination
7 has caused you mental anguish?

8 A. It's horrible. This was my
9 dream. Moving to America was my dream.
10 Not only had it been my dream for ten
11 years, it was my mom's dying wish that I
12 fulfill my dream and I come here. I pride
13 myself personally on doing the best I can.
14 I work hard. I would not have jeopardized
15 my job, my life, my dream and especially my
16 mother's wishes on doing something that I
17 didn't do and I don't like being accused of
18 something I did not do. It's made me
19 miserable. It's made me financially
20 unstable because I've had to repay all
21 these fees again and I've been unemployed.
22 I feel I'm under a lot of stress and my
23 dream is shattered. It's not been a
24 pleasant situation or experience in the
25 slightest.

1 ASHDOWN

2 MR. HARMAN: Let's go back on
3 the record for a second.

4 MR. McPARTLAND: We've been on
5 the record.

6 MR. HARMAN: If you wouldn't
7 mind just following up with an E-mail
8 and telling me exactly what it is
9 that you're requesting today so that
10 we can be on the same page.

11 MR. McPARTLAND: Yes, we're
12 going to do that.

13 MR. HARMAN: Usually I'm a
14 pretty good note taker, but I just
15 want to make sure given the short
16 amount of that time that we have to
17 complete all of this that you and I
18 have the same understanding of what
19 it is in addition to what you've
20 requested and what we've agreed to
21 provide to you or what have you.

22 MR. McPARTLAND: We'll put all
23 our requests in writing.

24 MR. HARMAN: Thank you.

25 MR. McPARTLAND: Off the

1 ASHDOWN

2 record.

3 (Whereupon, the discussion was
4 held off the record.)

5 Q. With respect to your clients to
6 whom you were providing personal training
7 services, where are you performing those
8 personal training sessions?

9 A. Primarily down here in the
10 financial district.

11 Q. At which location?

12 A. It's not in a gym. It's in
13 gyms in their buildings.

14 Q. At which buildings?

15 A. 15 Broad Street, 37 Wall
16 Street, 280 Rector Place, now you're asking
17 me and then I train people at the upper
18 east side and I have to come back to you
19 with all the locations. There's a gym that
20 I take clients to and I pay a fee.

21 Q. Where is that?

22 A. It's on 59th between First and
23 Second.

24 Q. What's the name of it?

25 A. Strive.

1 ASHDOWN

2 Q. Are you a member of it?

3 A. You get membership when you
4 train people there and I have a client on
5 56th and Sutton Place, but I don't know the
6 number of the building. I just know where
7 it is. I have a client on 56th and First.
8 Again I don't know the number of the
9 building. I just know where it is.

10 Q. Do you have a client named
11 Maria Elena?

12 A. I do.

13 Q. What is her last name?

14 MR. HARMAN: Hold on a second
15 because Equinox hasn't provided the
16 last names of any of its clients and
17 Ms. Ashdown is concerned about the
18 confidentiality of her clients, and
19 unless there's any legitimate reason
20 related to this lawsuit, for her to
21 reveal the last names of her clients,
22 we're going to maintain the
23 confidentiality of their last names.

24 MR. McPARTLAND: So you're
25 letting her answer the question?

1 ASHDOWN

2 MR. HARMAN: I'm instructing
3 her not to answer the question.
4 That's correct.

5 MR. McPARTLAND: You're
6 instructing her not to answer the
7 question?

8 MR. HARMAN: With respect to
9 the last names, I believe the first
10 names of all her clients have been
11 provided. If there is some reason
12 why you would need the last names of
13 the clients, please let me know and
14 we can have a discussion about it off
15 the record and try to resolve it.

16 MR. McPARTLAND: Well, we can
17 call the magistrate because this is
18 obviously relevant to the litigation.
19 I mean these are people that have
20 knowledge regarding what they've paid
21 her --

22 MR. HARMAN: I understand.

23 MR. McPARTLAND: (Continuing)
24 for personal training sessions.

25 MR. HARMAN: We've redacted all

1 ASHDOWN

2 the names of the clients in your
3 production and maintained a blanket
4 confidentiality of the last names of
5 your client's clients for the
6 purposes of maintaining their
7 confidentiality. My client is doing
8 the exact same thing that your client
9 is doing. She's maintaining the
10 privacy and confidentiality of her
11 clients. If you need additional
12 information, identify that. Lay a
13 foundation for it. Let me know and
14 I'll work with you to resolve that.
15 If you intend on serving anybody with
16 Subpoenas, let me know and we'll
17 raise it with the magistrate.

18 MR. McPARTLAND: Well, we
19 can't. First of all, we can't serve
20 anybody with a Subpoena without their
21 last name and last known address, so
22 that's impossible.

23 MR. HARMAN: Are you intending
24 to serve anybody with a Subpoena?

25 MR. McPARTLAND: I just want

1 ASHDOWN

2 their names and addresses.

3 MR. HARMAN: I am maintaining
4 the same confidentiality as you
5 asserted.

6 MR. McPARTLAND: Yes, but that
7 doesn't apply here because this is a
8 mitigation issue. The names that
9 we've redacted, which we've already
10 spoken to, are only members that have
11 nothing to do with this lawsuit, so
12 this goes directly to mitigation. I
13 mean these people have knowledge as
14 to what they've paid Ms. Ashdown. I
15 mean we have no records regarding
16 that at this point other than some of
17 these square down records, but there
18 have been other payments as well.

19 MR. HARMAN: You have all day
20 to ask her questions about what she's
21 been paid, how she's been paid and
22 the names of her clients.

23 MR. McPARTLAND: Well, she
24 hasn't provided the names of her
25 clients. That's all I'm looking for.

1 ASHDOWN

2 MR. HARMAN: Alright, if you
3 want to stipulate to keeping these
4 names confidential for the purposes
5 of this litigation only and not
6 revealing them outside of the context
7 of this litigation and not contacting
8 them without first contacting my
9 office and giving my office notice
10 that you intend to contact them, then
11 I will allow her to answer the
12 question.

13 MR. McPARTLAND: I'm not sure I
14 understand all the conditions.

15 MR. HARMAN: Can you please
16 read it back?

17 MR. McPARTLAND: No, no, no, I
18 don't need her to read it back.
19 Let's just talk it out. So if I plan
20 to subpoena any of these people, I
21 will not disclose these names. If I
22 plan to subpoena these people, which
23 I have to do under the Federal rules
24 anyway, I'll send the proposed
25 Subpoena to your office and you'll

1 ASHDOWN

2 have notice and I'll agree not to
3 serve the Subpoena until you have had
4 a reasonable opportunity to move to
5 quash them.

6 MR. HARMAN: Well, by that I
7 mean at least five business days.

8 MR. McPARTLAND: Sure, I'm
9 willing to do that. I'll do that.

10 MR. HARMAN: Okay.

11 MR. McPARTLAND: Okay, but
12 that's the only condition.

13 MR. HARMAN: If you will
14 contact any of these people, you
15 won't use the information for any
16 other purpose other the defense of
17 this litigation, --

18 MR. McPARTLAND: Okay.

19 MR. HARMAN: (Continuing) and
20 if you intend to serve a Subpoena on
21 any of these individuals, you will
22 provide me with a draft copy of it
23 and give me five business days or one
24 week before you've actually served
25 the Subpoena so that I can have an

1 ASHDOWN

2 opportunity to quash it prior to its
3 service if I believe it's improper.

4 MR. McPARTLAND: Okay, I'll
5 agree to that.

6 MR. HARMAN: Okay?

7 MR. McPARTLAND: Sure, okay.

8 Q. What is Maria [REDACTED] last
9 name?

10 A. English.

11 Q. Where does she reside?

12 A. She's the one on 56th and
13 Sutton Place. I couldn't tell you the name
14 of the building.

15 Q. Do you have her address in your
16 records?

17 A. I will, yes.

18 Q. What is Paris's last name?

19 A. [REDACTED]

20 Q. Where does Ms. [REDACTED] reside?

21 A. 15 Broad Street.

22 Q. Who is Erica's last name?

23 A. [REDACTED]

24 Q. Where does [REDACTED] reside?

25 A. 37 Wall Street.

1 ASHDOWN

2 Q. What is Angeline's last name?

3 A. [REDACTED]

4 Q. Where does [REDACTED] reside?

5 A. 79th between First and Second.

6 Q. Do you have her street

7 address --

8 A. No.

9 Q. (Continuing) somewhere on your
10 records?

11 A. Yes, I do.

12 Q. What is Kelly's last name?

13 A. [REDACTED] (phonetically
14 spelled).

15 Q. I'm sorry?

16 A. [REDACTED]

17 Q. Where does [REDACTED] reside?

18 A. On 58th and Sutton Place.

19 Q. Do you have her street address
20 in your records?

21 A. Yes.

22 Q. What is Melissa's last name?

23 A. [REDACTED] (phonetically spelled).

24 Q. Where does [REDACTED] reside?

25 A. 56th and Sutton Place.

1 ASHDOWN

2 Q. You have her address in your
3 records?

4 A. Yes.

5 Q. What is Tommy last name?

6 A. [REDACTED] (phonetically spelled).

7 Q. Where does [REDACTED] reside?

8 A. London Terrace.

9 Q. Where?

10 A. 23rd between Ninth and Tenth,
11 it takes up the whole block.

12 Q. That's the street address
13 though?

14 A. Yes.

15 Q. What is Carlos's last name?

16 A. [REDACTED] he's actually a friend
17 of mine.

18 Q. Where does [REDACTED] reside?

19 A. Harlem somewhere.

20 Q. Do you have his address?

21 A. No, he's a friend of mine. I
22 just train him. He's a friend of mine.
23 I've been training him free.

24 Q. Does he compensate you?

25 A. He pays the fee to get into the

1 ASHDOWN

2 gym. I pay them and he pays me.

3 Q. What is Nadia's last name?

4 A. Nadia.

5 Q. Nadia?

6 A. Yes, it's [REDACTED]

7 Q. Where does she reside?

8 A. 8 Spruce Street.

9 Q. What is Rick's last name?

10 A. Oh, [REDACTED]

11 Q. I'm sorry?

12 A. [REDACTED]

13 Q. Where does [REDACTED] reside?

14 A. Morton Street, I think it's
15 number 1 Morton Street, Morton Square.

16 Q. What is Mona's last name?

17 A. Now that's [REDACTED] I think.

18 Q. Is that [REDACTED]

19 A. Yeah.

20 Q. Do you have the correct
21 spelling of her last name and her address?

22 A. In my records, yes.

23 Q. What is Christina's last name?

24 A. [REDACTED] (phonetically
25 spelled).

1 ASHDOWN

2 Q. Where does [REDACTED] reside?

3 A. 77th between Second and Third,
4 77th.

5 Q. Do you have her street address
6 in your records?

7 A. I do.

8 Q. Other than this list of names
9 that we've just gone through, have you
10 trained any other clients since the date of
11 the termination of your employment with
12 Equinox?

13 A. No.

14 Q. With respect to Maria [REDACTED]
15 how frequently have you trained her?

16 A. I used to see her twice a week.
17 I don't train her anymore.

18 Q. During what time period would
19 you see her two times a week?

20 A. I saw her for twelve weeks.

21 Q. During what time period?

22 A. She stopped training with me
23 the end of July.

24 Q. How did she pay you?

25 A. She paid by square.

1 ASHDOWN

2 Q. What did she pay you?

3 A. She paid a hundred dollars a
4 session, so she bought two packets of
5 twelve.

6 Q. With respect to Cara, with what
7 frequency have you trained her?

8 A. I see her twice a week.

9 Q. For how long have you been
10 doing that?

11 A. A while, I couldn't give you an
12 exact time frame.

13 Q. Has it been more than a month?

14 A. Yeah, it has been much longer
15 than a month. She has bought like four
16 courses.

17 Q. Are you currently training her?

18 A. Not right now, she's having a
19 break until the 10th.

20 Q. What does she pay for personal
21 training sessions?

22 A. Actually Cara I only charge
23 \$45.00 a session because she's a friend of
24 mine.

25 Q. How does she pay you?

1 ASHDOWN

2 A. She pays by check.

3 Q. Erica, how frequently have you
4 trained her since the termination of your
5 employment?

6 A. That was once a week
7 infrequently. She used to pay by square
8 and her dad has just paid for her to have
9 twelve sessions.

10 Q. How much did he pay for that?

11 A. I think it was eighty-five or
12 ninety a session and now she's training
13 three times a week.

14 Q. Has she paid \$85.00 to \$90.00 a
15 week a session for all of her sessions?

16 A. Yes.

17 MR. BLUNETTI: So we're up to
18 Cara?

19 THE WITNESS: We've done her.
20 We've done her.

21 MR. McPARTLAND: I'm sorry?

22 MR. BLUNETTI: What about
23 Angeline?

24 Q. What about Angeline?

25 A. Angeline's so infrequent, I

1 ASHDOWN

2 don't know from one week to the next when
3 the next time is I'm seeing her. She
4 cancels all the time every single week.

5 Q. How long have you been training
6 her?

7 A. Not very long, well, the first
8 time was three months ago. I've probably
9 seen her five times since. She is the most
10 infrequent person I've ever had.

11 Q. How much does she pay per
12 session?

13 A. The same ninety.

14 Q. How about Kelly?

15 A. Ninety.

16 Q. How long have you been training
17 her?

18 A. Pretty much since I think I
19 started training her in January, February.

20 Q. Of 2013?

21 A. Yeah, I haven't seen her the
22 whole summer. She's in London.

23 Q. How frequently did you train
24 her prior to that?

25 A. She was sporadic too, sometimes

1 ASHDOWN

2 twice a week, sometimes once a week,
3 sometimes none, sometimes three. It
4 depended on whether she was around and what
5 she was doing with work.

6 Q. How about Melissa?

7 A. Melissa, I haven't seen her the
8 whole summer again. She's away. She was
9 twice a week.

10 Q. For how long?

11 A. She did one course of twelve.
12 She'll start again in a couple of weeks.

13 Q. How much does she pay?

14 A. She pays \$90.00 a session.

15 Q. How does she pay?

16 A. She pays per square.

17 Q. How does Kelly pay for hers?

18 A. She pays by check.

19 Q. Just in case I didn't ask,
20 Angeline?

21 A. Angeline is check.

22 Q. Angeline is check?

23 A. Mmhmmm, yes.

24 Q. Tommy?

25 A. Tommy pays by check.

1 ASHDOWN

2 Q. How much does he pay?

3 A. He's a new client. I've only
4 had three sessions with him, four sessions
5 with him. He's new and he's also very
6 sporadic, so I don't see him from one week
7 to the next.

8 Q. How long ago have you been
9 training with him the first time?

10 A. The first time must have been a
11 couple of months ago and it's been so
12 sporadic. It's I never know.

13 Q. How about Carlos?

14 A. Carlos I'll see two, three
15 times a week for an eight-week period.
16 He's also currently away. I'm not sure
17 whether he's going to stop or continue
18 training when he gets back.

19 Q. What do you charge him?

20 A. Again he is my friend. He pays
21 \$60.00 an hour.

22 Q. How does he pay?

23 A. He pays by check.

24 Q. How about Nadia?

25 A. Nadia?

1 ASHDOWN

2 Q. Nadia rather.

3 A. She pays by square.

4 Q. How long have you been training
5 her?

6 A. She is also new. She is on her
7 second session of twelve.

8 Q. What does she pay per session?

9 A. Ninety.

10 Q. How about Rick?

11 A. Rick is also new. He pays by
12 square. He pays individual sessions of
13 ninety.

14 Q. How long have you been training
15 him and how frequently?

16 A. Again it's very sporadic. We
17 go on a weekly basis. There is no set
18 schedule with him. It's as and when he
19 fits in and I've pretty much done about
20 three or four sessions with him and that's
21 it.

22 Q. How about Mona?

23 A. Mona is I train her with her
24 friend, the two of them together, but don't
25 ask me to pronounce the other girl's name.

1 ASHDOWN

2 I can't pronounce it myself, Anyona, Anjona
3 (phonetically spelled).

4 Q. So it's somebody that's not on
5 this list?

6 A. Huh?

7 Q. It's somebody that's not on
8 this list?

9 A. Actually Mona is the one that
10 pays me.

11 Q. Yes, but she pays you for two
12 people?

13 A. Yeah, they split it so Anyona.

14 Q. How much does Mona pay you for
15 her and her friend?

16 A. Ninety.

17 Q. Ninety each?

18 A. No, ninety between them because
19 I train them outside.

20 Q. How frequently do they train?

21 A. Ideally twice a week but with
22 vacation it's been once.

23 Q. How long have they been
24 training with you?

25 A. A few weeks.

1 ASHDOWN

2 Q. How about Christina?

3 A. Christina is twice a week when
4 she's around and that's been a few months.

5 Q. How does Christina pay you?

6 A. She pays by square.

7 Q. How does Mona pay you?

8 A. She pays by square.

9 Q. You've never taken any cash
10 payments from any of these people for any
11 personal training sessions?

12 A. No.

13 Q. This is the entire list of
14 persons that you've been training since
15 your termination of your employment at
16 Equinox?

17 A. I believe so. Can I take a
18 look at that list?

19 Q. Sure, I think I have a copy
20 here.

21 MR. BLUNETTI: The amended, yes
22 (indicating).

23 MR. McPARTLAND: We might as
24 well mark this actually.

25 (Whereupon, the aforementioned

1 ASHDOWN

2 document was marked as Defendant's
3 Exhibit N for identification, as of
4 this date, by the court reporter.)

5 Q. Ms. Ashdown, I'm going to hand
6 you an eight-page document that has been
7 marked as Defendant's Exhibit N. It's got
8 the caption of the case. It's entitled
9 Plaintiff's Amended Responses to
10 Defendants' First Request for the
11 Production of Documents and Defendants'
12 First Set of Interrogatories and I'm going
13 to ask you to review the amended
14 interrogatories on the beginning of page 6
15 until the end of that document
16 (indicating).

17 A. Okay, I don't know what the
18 questions are, so --

19 MR. HARMAN: Just review the
20 interrogatories response from page 6
21 to the end and then he'll ask you
22 whatever question he wants to ask
23 you.

24 THE WITNESS: Okay, sorry,
25 okay.

1 ASHDOWN

2 Q. Have you ever seen those
3 responses before?

4 A. I have.

5 Q. When did you last see them?

6 A. Yesterday.

7 Q. Did you see them at any time
8 prior to that?

9 A. Not that I recall.

10 Q. Have you ever signed a
11 Verification swearing that they're true and
12 correct?

13 A. I have.

14 MR. McPARTLAND: We have not
15 received that Verification. Do you
16 have a copy with you?

17 MR. HARMAN: Well, I'll have it
18 sent to you.

19

20 Q. When did you sign that
21 Verification?

22 A. Last week, I believe.

23 Q. Referring to the response to
24 interrogatory number nineteen on page 8,
25 there are a number of individuals listed

1 ASHDOWN

2 there?

3 A. Yeah.

4 Q. Is that a full and complete
5 list of every single person you provided
6 personal training services to since the
7 date of the termination of your employment
8 with Equinox?

9 A. I'm trying to think of my
10 schedule. Can we add Anyona on with Mona?
11 I'm sorry. I'm just trying to think of my
12 schedule in my head. I believe it is. I'm
13 sorry. I do believe it is.

14 Q. How did you come up with this
15 list?

16 A. I originally went off the top
17 of my head.

18 Q. Did you ever look at your
19 contacts?

20 A. Not at the time, no.

21 Q. Did you do any other
22 investigation other than just coming up
23 with this list off the top of your head and
24 looking at your records?

25 A. No, but I can forward you any

1 ASHDOWN

2 additional people.

3 Q. We'll leave a space in the
4 record.

5 A. Okay.

6 Q. So you'll review your records?

7 A. I will review my schedule and I
8 can forward you any records of anybody that
9 is missing. I don't believe there is, but
10 I will look again.

11

12 Q. Who is Whitney Arnold?

13 A. She's a friend of mine.

14 Q. Do you have any business
15 relationship with her ever?

16 A. No, she's a friend of mine for
17 years.

18 Q. Who is Martha [REDACTED]?

19 A. She used to be a client.

20 Q. Where?

21 A. In Equinox.

22 Q. Have you had any contact with
23 her since the date of your termination of
24 your employment?

25 A. Yes, I asked her to write that

1 ASHDOWN

2 letter.

3 Q. Did you provide her with any
4 personal training sessions?

5 A. No.

6 Q. Who is Michelle Harding?

7 A. She used to be a friend of mine
8 who used to live here in New York. She
9 moved now back to the UK.

10 Q. She currently resides in the
11 UK?

12 A. She does.

13 Q. Have you ever provided her with
14 any personal training sessions?

15 A. No.

16 Q. Who is Enrico [REDACTED]?

17 A. A previous client of mine.

18 Q. Where?

19 A. At Equinox.

20 Q. Have you been in contact with
21 [REDACTED] since your termination at
22 Equinox?

23 A. Yes.

24 Q. For what purpose?

25 A. He's my friend.

1 ASHDOWN

2 Q. Do you provide him with any
3 personal training sessions?

4 A. No, he trains with Jenelle
5 Stevens (phonetically spelled) who used to
6 work at Equinox.

7 Q. Who is Dean Williams?

8 A. He's a friend.

9 Q. Do you have any business
10 relationship with him?

11 A. No.

12 Q. Have you ever provided him with
13 personal training services?

14 A. No.

15 Q. Who is Ceirin?

16 A. Ceirin.

17 Q. Cassel?

18 A. Cassel.

19 Q. Who is she?

20 A. It's a he.

21 Q. He, I'm sorry, who is he?

22 A. He's a friend of mine.

23 Q. Have you ever provided him with
24 any personal training sessions?

25 A. No.

1 ASHDOWN

2 Q. Are any in this list former
3 members of Equinox?

4 A. No.

5 MR. McPARTLAND: Can we have
6 this marked, please?

7 (Whereupon, the aforementioned
8 document was marked as Defendant's
9 Exhibit O for identification, as of
10 this date, by the court reporter.)

11 Q. Ms. Ashdown, I'm going to show
12 you an eight-page document dated August 2,
13 2013 entitled Plaintiff's Response to
14 Defendants' First Set of Interrogatories
15 and it has the caption in this case and
16 I'll ask you to take a look at this
17 document (indicating).

18 A. Okay, you want me to read the
19 whole thing?

20 Q. Sure.

21 A. Okay.

22 Q. Have you ever seen this
23 document before?

24 A. Yeah.

25 Q. When did you first see this

1 ASHDOWN

2 document?

3 A. I can't give you an exact date.

4 Q. Was it before August 2 of 2013?

5 A. I couldn't tell you.

6 Q. Did you send a Verification --

7 A. Yes, I did.

8 Q. (Continuing) for this

9 particular document?

10 A. Mmhmmm, yes.

11 Q. When did you sign that

12 Verification?

13 A. Last Thursday, I believe, last

14 Wednesday, last Thursday.

15 MR. McPARTLAND: Have you

16 forwarded that to us?

17 MR. HARMAN: Can we go off the

18 record?

19 (Whereupon, the discussion was

20 held off the record.)

21 Q. To your recollection, did you

22 sign one or more than one Verification?

23 A. I've signed one.

24 Q. One?

25 A. Yeah.

1 ASHDOWN

2 Q. When was that?

3 A. I believe the one I signed was
4 last week.

5 Q. Didn't you previously testify
6 that you signed one yesterday as well?

7 A. I don't remember signing one
8 yesterday. Maybe I did.

9 MR. HARMAN: I think her
10 previous testimony was that she
11 signed one last week, but the record
12 will be what it will be.

13 MR. McPARTLAND: Okay.

14 Q. I am going to refer you to item
15 number twenty-one on this document.

16 A. Okay.

17 Q. Response number twenty-one,
18 which is a list of purported damages.

19 A. Yes.

20 Q. I'm going to refer you to item
21 two, which is physical therapy sessions for
22 \$48,051.00.

23 A. No, that's personal training
24 sessions, but I am right as to PT, meaning
25 personal training. Here PT means physical

1 ASHDOWN

2 therapy, so that's just a miscommunication.

3 Q. So \$48,051.00 is how much
4 you've earned?

5 A. How much I, no, how much I
6 would have earned in personal training
7 sessions.

8 Q. Did you build this list on your
9 own?

10 A. Huh?

11 Q. Did you build this list?

12 A. Yes.

13 Q. How did you calculate that
14 number?

15 A. It would have been between when
16 I left till when I came back on what I
17 would have earned, on what I was delivering
18 as opposed to what I would have been paid
19 per session per hour.

20 Q. What records did you rely on to
21 build this number?

22 MR. HARMAN: Objection.

23 Q. If any.

24 A. What I knew I delivered on a
25 monthly basis.

1 ASHDOWN

2 Q. Did you look at any documents
3 to figure that out?

4 A. No, but I was targeted to train
5 on ten hours a week and I think that's what
6 I based it on.

7 Q. With respect to your bonus, how
8 is this number calculated?

9 A. Again that was the smallest
10 amount of bonus I could have achieved on
11 hitting the target.

12 Q. Did you rely on any documents
13 to calculate that figure?

14 A. I actually took the figures off
15 the document you showed me earlier, which
16 is the compensation document.

17 Q. With respect to your quarterly
18 bonus, how is that calculated?

19 A. Again off that same document.

20 Q. With respect to the medical
21 bills since April of 2010?

22 A. I have copies of the medical
23 bills and that's me converting it from
24 pounds into dollars, so that was from the
25 conversion rate at that time.

1 ASHDOWN

2 Q. What time period are these
3 medical bills? These medical bills are
4 from April of 2010?

5 A. Yes.

6 Q. Who has paid these bills?

7 A. Me and a friend of my friend's
8 dad paid some of them for me and I borrowed
9 some money from a friend. I've also
10 re-mortgaged my house in the UK.

11 Q. Where are these medical bills?

12 A. I can get copies of those.

13 Q. Where are they currently
14 located?

15 A. In the UK.

16 MR. McPARTLAND: We'll put that
17 request in writing.

18

19 Q. Relocating, what does this
20 number represent?

21 A. It's the cost of moving,
22 shipping all my belongings over here.

23 Q. From which time period?

24 A. This is initially.

25 Q. So to join Equinox?

1 ASHDOWN

2 A. Mmhmmm, yes.

3 Q. Your relocating costs to join
4 Equinox?

5 A. Yes.

6 Q. What documents do you base that
7 number on?

8 A. That I can't recall what I
9 based it on.

10 Q. Do you have any documents?

11 A. I can go back and get that
12 information.

13 Q. What is the new visa item?

14 A. It is what had to be paid to
15 apply for a new visa.

16 Q. What documents do you have to
17 support that number?

18 A. I can get a bill from my
19 lawyer.

20 Q. What is new relocation?

21 A. That's the cost of moving back
22 here.

23 Q. What documents do you have to
24 prove that?

25 A. I have shipping costs. I have

1 ASHDOWN

2 a receipt from the shipper.

3 Q. When was that move to come back
4 here?

5 A. October.

6 Q. Of 2012?

7 A. It is, yeah.

8 Q. What are counseling and therapy
9 bills?

10 A. That's what was discussed
11 earlier, which was the counselor that I had
12 to go through.

13 Q. Where are those documents
14 located?

15 A. In the UK.

16 Q. Do you have them in your
17 personal possession?

18 A. I don't know.

19 Q. What is the storage in London?

20 A. That's actually storage here
21 for some of the belongings that I put in
22 storage here while I was in London. That
23 was at Manhattan Mini Storage.

24 Q. Do you have copies of those
25 bills?

1 ASHDOWN

2 A. I can get a copy of the bill.

3 MR. McPARTLAND: Off the
4 record.

5 (Whereupon, the discussion was
6 held off the record.)

7 MR. McPARTLAND: I don't have
8 anything further.

9 (Whereupon, at 2:40 P.M., the
10 examination of this witness was
11 concluded.)

12

13

14 _____
KERRY ASHDOWN

15 Subscribed and sworn to before me
16 this _____ day of _____, 20__.

17

18 _____
NOTARY PUBLIC

19

20

21

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1 ASHDOWN

2 E X H I B I T S

3 DEFENDANT'S EXHIBITS:

4	EXHIBIT	EXHIBIT	PAGE
5	NUMBER	DESCRIPTION	
6	A	Square Dashboard	
7		Payments	18
8	B	Employment Agreement	38
9	C	Harassment Policy	39
10	D	Receipt of Employee	
11		Handbook	40
12	E	Letter dated February 9,	
13		2011	41
14	F	Compensation Plan -	
15		Kerry Ashdown	42
16	G	E-mail dated July 25,	
17		2011	80
18	H	E-mails dated August 1,	
19		2011 and July 29, 2011	87
20	I	Resume	90
21	J	E-mail dated August 1,	
22		2011	93
23	K	E-mails dated July 6,	
24		2011 and July 5, 2011	107
25	L	Performance Commission	129

1 ASHDOWN

2 E X H I B I T S

3 DEFENDANT'S EXHIBITS:

4 EXHIBIT EXHIBIT PAGE

5 NUMBER DESCRIPTION

6 M Pulled Sessions Report 136

7 N Plaintiff's Amended
8 Responses to Defendants'

9 First Request for the
10 Production of Documents

11 and Defendants' First
12 Set of Interrogatories 176

13 O Plaintiff's Response to
14 Defendants' First Set of
15 Interrogatories 183

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1	ASHDOWN	
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3	INFORMATION AND/OR DOCUMENTS	PAGE
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5	and address	10
6	2011 tax return	151
7	Barbara Adkins' address`	152
8	Tax authorization for the United	
9	States tax return	155
10	Signed Verification	178
11	List of any other persons that were	
12	provided personal training services	
13	since the date of the termination	
14	of employment with Equinox	180
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ASHDOWN

C E R T I F I C A T E

STATE OF NEW YORK)
 : SS.:
COUNTY OF KINGS)

I, MAY JEAN WU, a Notary Public for
and within the State of New York, do hereby
certify:

That the witness whose examination is
hereinbefore set forth was duly sworn and
that such examination is a true record of
the testimony given by that witness.

I further certify that I am not
related to any of the parties to this
action by blood or by marriage and that I
am in no way interested in the outcome of
this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 30th day of August, 2013.



MAY JEAN WU